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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 13 (c)

CONCLUDING ITEMS

ADOPTION OF THE REPORT ON THE FORTY-NINTH SESSION

Draft report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-ninth session

Rapporteur: Mr. Marc Bossuyt

CONTENTS*

Chapter — Page

II. Draft resolutions and decisions adopted by the Sub-Commission at its forty-ninth session . . . . . .

A. Resolutions

1997/1. Situation of human rights in the Congo . . .

1997/2. Situation of human rights in Bahrain . . . .

1997/3. Situation of human rights in the Democratic People's Republic of Korea . . . . . .

* E/CN.4/Sub.2/1997/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights, will be contained in documents E/CN.4/Sub.2/1997/L.11 and Addenda.

CONTENTS (continued)

Chapter			Page
II.	A.	Resolutions (continued)	
		1997/4. Situation of migrant workers and members of their families	
		1997/5. Racism and racial discrimination	
		1997/6. Forced evictions	
		1997/7. The realization of the right to education, including education in human rights	
		1997/8. Traditional practices affecting the health of women and the girl child	
		1997/9. Implementation of the human rights of women and the girl child	
		1997/10. Permanent forum within the United Nations system for indigenous peoples	
		1997/11. The relationship between the enjoyment of economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations	
		1997/12. Study on indigenous land rights	
		1997/13. Protection of the heritage of indigenous people	
		1997/14. Working Group on Indigenous Populations . . .	
		1997/15. International Decade of the World's Indigenous People	

1997/1 Situation of human rights in the Congo

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming that all Member States have an obligation to promote and protect human rights as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights and other applicable human rights instruments,

Mindful that the Congo is a party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the first Optional Protocol thereto, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and the four Geneva Conventions of 1949,

Recalling the Peace Pact of 24 December 1995 in which the parties agreed to general disarmament and the dissolution of militias,

Welcoming the ceasefire of mid-July 1997 and the continuing discussions in Libreville, within the framework of the International Committee of Mediation for the Negotiated Resolution of the Conflict, presided by the President of Gabon, H.E. Mr. Omar Bongo,

1. Expresses its concern:

(a) That the Peace Pact of 24 December 1995 has not been fully implemented;

(b) At the reports of hundreds of deaths, including those of children and other civilians, in the intercommunal strife which has occurred since early June 1997 and the continuing loss of life in the city of Brazzaville;

(c) At the reports of thousands of people who have been forced to leave their homes in the city of Brazzaville during the intercommunal strife;

(d) At allegations of torture by parties to the conflict;

(e) At the continuing difficulties experienced by the Government of the Congo and humanitarian organizations in providing medical care and other social services in the city of Brazzaville;

(f) At the shoot-on-sight policy announced by the Minister of Security in January and then apparently discontinued, but with no announcement of a formal cancellation of the policy;

(g) That the presidential elections could not be held;

2. Calls upon the Government of the Congo and all parties to the conflict:

(a) To abide by their obligations under international human rights and humanitarian law and to cease abuses;

(b) To create conditions for the delivery of medical care and other social services in the city of Brazzaville;

(c) To select an independent, respected and impartial elections commission to arrange for elections, to allow free and fair elections, to agree to abide by the results, taking into account the need for diversity in the ethnic composition of the Government, and to develop a civil society for the maintenance of human rights and peace;

(d) To develop confidence-building measures so that people from all parts of the Congo can again enjoy freedom of movement;

(e) To develop mechanisms for transparency such that everyone will know how governmental revenues are being distributed and spent;

(f) To provide access to and cooperate with a recognized humanitarian body in protecting the rights of detainees throughout the country and contributing to the protection of the civilian population of the country;

(g) To ensure thorough and impartial investigations into allegations of violations of human rights and international humanitarian law and to bring the perpetrators to justice;

3. Decides to recommend that the Commission on Human Rights consider the situation of human rights in the Congo at its next session and, if the Commission is unable to take action on the situation of human rights in the Congo, to continue consideration of the matter at its fiftieth session under the same agenda item.

23rd meeting
20 August 1997

[Adopted by secret ballot by 13 votes to 10, with 2 abstentions. See chap. IV.]

1997/2. Situation of human rights in Bahrain

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the obligation of States under the Charter of the United Nations to promote and encourage universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming its conviction that racism and racial discrimination negate the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Noting that the elected National Assembly of Bahrain was dissolved in August 1975, that for 22 years Bahrain has been without an elected legislature, and that there are no democratic institutions in Bahrain,

Noting also that Bahrain is facing problems of internationally assisted terrorism, and condemning all acts of terrorism in that country,

Noting further the information concerning a serious deterioration of the human rights situation in Bahrain, including discrimination against the indigenous Shi'a population, extrajudicial killings, persistent use of torture in Bahraini prisons on a large scale as well as the abuse of women and children who are detained, and arbitrary detention without trial or access by detainees to legal advice,

1. Expresses its deep concern about the alleged gross and systematic violations of human rights in Bahrain;

2. Urges the Government of Bahrain to comply with applicable international human rights standards and to ratify the International Covenants on Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

3. Requests the Commission on Human Rights at its next session to consider the situation of human rights in Bahrain under its agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

24th meeting
21 August 1997
[Adopted by secret ballot by 12 votes to 11, with 1 abstention. See chap. IV.]

1997/3. Situation of human rights in the Democratic People's Republic of Korea

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, particularly its article 13, and the International Covenant on Civil and Political Rights, particularly its article 12, to which the Democratic People's Republic of Korea is a party,

Noting, in the light of resolution 1997/22 of the Commission on Human Rights, that the Democratic People's Republic of Korea is not included in the list of countries under consideration by the Commission under public procedures (E/CN.4/Sub.2/1997/33, annex),

Concerned by persistent and concordant allegations that grave violations of human rights are being committed in that country, including recourse to mass internments in administrative detention centres, and by serious restrictions affecting, in violation of article 13 of the Universal Declaration of Human Rights and of article 12 of the International Covenant on Civil and Political Rights, the right of everyone to leave any country, including his own, and to return to his country.

Deeply concerned by the virtual impossibility of obtaining information or visiting that country to ascertain whether or not there are grounds for the allegations concerning the situation of human rights in that country, and to obtain information concerning the legislation in force and the manner in which it is implemented,

Deploring, in this connection, the delay by the Democratic People's Republic of Korea in submitting its periodic report, due now for almost 10 years,

1. Urgently calls upon the Government of the Democratic People's Republic of Korea to ensure full respect for article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights, both of which relate to the right of everyone to leave any country, including his own and to return to his country;

2. Requests the Government of the Democratic People's Republic of Korea to fulfil its obligations and delay no longer the submission of its

periodic report to the Human Rights Committee and to extend its cooperation with the procedures and services established by the United Nations with the aim of ensuring promotion and protection of human rights;

3. Invites the international community to devote greater attention to the situation of human rights in the Democratic People's Republic of Korea and thus assist the population of that country in emerging from the isolation in which it is maintained;

4. Also invites the international community to furnish increased assistance to the Democratic People's Republic of Korea in order to help it to overcome the present period of food shortage and the suffering it is causing.

24th meeting
21 August 1997

[Adopted by secret ballot by 13 votes to 9, with 3 abstentions. See chap. IV.]

1997/4. Situation of migrant workers and members of their families

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolutions 1997/13 and 1997/15, dated 3 April 1997, and its resolution 1996/10 of 23 August 1996,

Reaffirming that acts of violence against migrant workers, both men and women, constitute flagrant violations of the international instruments relating to human rights, and in particular the Convention on the Elimination of All Forms of Discrimination against Women,

Convinced that the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families will contribute to the improvement of the situation of migrant workers and to the protection of their rights,

Sharing the opinion of the Commission on Human Rights on the situation of vulnerability in which migrants frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they encounter because of differences of languages, customs and culture,

Taking note with interest of the recommendations adopted by the seminar on immigration, racism and racial discrimination,

1. Affirms that immigration is by no means a burden but rather a phenomenon whose effects are rewarding for receiving societies in economic, social and cultural terms;

2. Considers that if the geographical dynamics of international migratory movements are steadily increasing, it is because poverty is growing in a large number of developing countries and the use of foreign labour in the developed countries is continuing despite claims that there is a crisis;

3. Regrets the contradiction which exists between the free movement of goods, the liberalization of trade in services and financial transactions encouraged by the transnational corporations and international financial institutions, and the increasingly draconian restrictions imposed on the movement of individuals;

4. Again condemns acts of violence resulting from racism, racial discrimination and xenophobia directed against migrant workers;

5. Calls on the competent authorities of receiving countries to pay particular attention to the protection of women migrant workers, who are confronted with dual discrimination as women and migrant workers;

6. Takes note with satisfaction of the positive measures taken by the European Union to give practical substance to the Year against Sex Tourism which it has proclaimed, and the measures decided by several European countries with the aim of legalizing certain situations whose precarious character seriously affects migrant workers and members of their families;

7. Appeals to the States concerned by immigration to study the possibility of granting migrant workers dual nationality which would constitute a positive factor for integration, with due respect for cultural identity, and also protection against the evils of racial discrimination;

8. Affirms that the promulgation and/or reinforcement by Governments of effective legislation against racism and racial discrimination would guarantee the protection of migrant workers and members of their families;

9. Welcomes the establishment by the Commission on Human Rights of a working group on migrants and human rights;

10. Considers that it would be useful, on the occasion of the establishment of policies aimed at protecting the rights of migrant workers, for Governments to be able to benefit from the experience of representatives of migrant workers' organizations;

11. Is convinced that an information campaign on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would contribute to its ratification;

12. Again appeals to all Governments to ratify the Convention in order that it may be put into effect as soon as possible;

13. Decides to continue to consider this question at its next session under the same agenda item.

25th meeting
21 August 1997

[Adopted without a vote. See chap. V.]

1997/5. Racism and racial discrimination

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1996/8 of 23 August 1996, in which the Sub-Commission expressed its full support for the convening, as soon as possible, of a world conference to combat racism and racial discrimination,

Welcoming Commission on Human Rights resolution 1997/74 of 18 April 1997, in which the Commission recommended that the General Assembly convene a world conference on racism and racial discrimination, xenophobia and related intolerance not later than the year 2001 and noted the importance of taking a gender perspective into account throughout the preparation of the conference,

Welcoming also Economic and Social Council resolution 1997/38, in which the Council endorsed the call for the General Assembly to convene a world conference on racism and related intolerance not later than the year 2001 and expressed the view that the conference itself should be action-oriented, with a focus on practical measures to eradicate racism,

Welcoming further General Assembly resolution 50/136 of 21 December 1995, in which the Assembly decided that the international community in general and the United Nations in particular should give the highest priority to programmes for combating racism and racial discrimination, and Assembly resolution 51/81 of 12 December 1996 in which the Assembly expressed its regret at the lack of interest, support and financial resources for the Third Decade to Combat Racial Discrimination and Racial Discrimination and its Programme of Action,

Expressing its gratitude to the Committee on the Elimination of Racial Discrimination for recommending future Sub-Commission studies that could usefully contribute to the work of the Committee,

Noting with grave concern the persistence of racism and the emergence of new forms of racial discrimination, xenophobia and related intolerance, including new policies based on racial, religious, ethnic, cultural and national superiority or exclusivity,

Alarmed, moreover, at the increasingly violent forms of racism and racial discrimination in different parts of the world which constitute a grave threat to the building of a social order where all human rights can be realized,

Recognizing, in particular, that the 400-year tragedy of plantation slavery in the Americas continues to be felt throughout the hemisphere, and that African diaspora communities in the Americas continue to suffer from the legal, political and economic legacies of the slave trade, so that today Black communities in the Americas are among the poorest of the poor and poverty is an immutable fact of life for the majority of peoples of African descent living in the Americas,

Conscious that there exists a connection between the growing problem of racism and racial discrimination and global social and economic developments, including the widening gap between rich and poor within and between countries,

Deeply concerned that the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination has remained largely unimplemented,

Convinced that the increasing danger of racism and racial discrimination must be met by a concerted response by the international community commensurate with the threat posed to the realization of the objective of the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all,

Recalling the two World Conferences to Combat Racism and Racial Discrimination, held at Geneva in 1978 and 1983,

Convinced that the convening of a third world conference to combat racism and racial discrimination in the near future would send a clear signal of the determination of the world community to deal decisively with the

scourge of racism and would be an important opportunity for developing comprehensive, action-oriented strategies to combat racism and racial discrimination,

1. Encourages States that have not yet ratified the International Convention on the Elimination of All Forms of Racial Discrimination to do so, with a view to eradicating all forms of racial discrimination within their territories and appeals to States parties to the Convention to submit their reports to the Committee on the Elimination of Racial Discrimination in a timely manner;

2. Calls upon Member States to contribute generously to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination;

3. Requests the Secretary-General to take every measure, including those approved by the General Assembly in its resolutions 48/91 of 20 December 1993 and 49/146 of 23 December 1994 and in the programme budget relating to the activities of the Third Decade, to ensure the implementation of the recommendation by the General Assembly to establish a focal point on racism within the Centre for Human Rights for the coordination of activities under the Third Decade;

4. Calls upon the Working Group on Minorities to consider how the Sub-Commission in its future work might usefully address the continuing legal, political and economic legacies of the African slave trade, as experienced by Black communities throughout the Americas;

5. Expresses its full support for the convening of a world conference to combat racism and racial discrimination not later than the year 2001, as recommended by the Commission on Human Rights in its resolution 1997/74 and the Economic and Social Council in its resolution 1997/38;

6. Calls upon Member States to respond positively to the proposal to convene a world conference to combat racism and racial discrimination;

7. Confirms its readiness to contribute actively at every stage of the preparations for a world conference to combat racism and racial discrimination;

8. Requests the United Nations High Commissioner for Human Rights to submit to the Commission on Human Rights a report on the status of preparations for the world conference to combat racism and racial discrimination and the ways and means in which the Sub-Commission and other

relevant bodies can contribute to the tasks the Commission proposed be entrusted to it as the preparatory committee for the world conference to combat racism and racial discrimination;

9. Expresses its belief that the world conference to combat racism and racial discrimination should carefully consider the complicated interplay of discrimination based on race and discrimination based on other grounds, such as gender;

10. Proposes to hold in 1998, jointly with the Committee on the Elimination of Racial Discrimination an expert seminar that will explore in depth, inter alia, the issues put forward by the Committee on the Elimination of Racial Discrimination for further study by the Sub-Commission (see E/CN.4/Sub.2/1997/31), and determines, in addition, to continue to explore other opportunities to collaborate with and support the work of the Committee on the Elimination of Racial Discrimination;

11. Resolves that the Sub-Commission should strive in all of its work to include disaggregated data on the extent to which direct or indirect discrimination and violations of economic, social or cultural rights may be linked to racial, ethic or gender distinctions;

12. Invites all organizations and bodies of the United Nations, and particularly the special procedures of the Commission on Human Rights, to the extent appropriate within their mandates, to include an assessment of race and ethnicity factors in the conduct of their respective programmes of work, including all reporting under international human rights instruments and mechanisms;

13. Notes the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and calls upon both Member States and the Secretary-General to provide the Special Rapporteur, without delay, with all necessary assistance and resources to enable him to carry out his full mandate;

14. Takes note with satisfaction of the recommendations adopted by the Seminar on Immigration, Racism and Racial Discrimination organized by the High Commissioner/Centre for Human Rights from 5 to 9 May 1997, requests that the recommendations be widely distributed, and expresses the hope that the

Commission's working group of intergovernmental experts on the protection of the human rights of migrants will take the conclusions and recommendations of the Seminar into consideration during its deliberations;

15. Decides to give full attention to these issues at its fiftieth session under the same agenda item.

25th meeting
21 August 1997

[Adopted without a vote. See chap. V.]

1997/6. Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1991/12 of 26 August 1991, 1992/14 of 27 August 1992, 1993/41 of 26 August 1993, 1994/39 of 26 August 1994, 1995/29 of 24 August 1995 and 1996/27 of 29 August 1996,

Recalling also Commission on Human Rights resolution 1993/77 of 10 March 1993 and the analytical report on forced evictions prepared by the Secretary-General (E/CN.4/1994/20) and submitted to the Commission at its fiftieth session,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted arbitrarily or on a discriminatory basis from one's home, land or community,

Recognizing that the practice of forced eviction often involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, resulting in greater homelessness and inadequate housing and living conditions,

Noting that when, under exceptional circumstances, evictions are considered to be justified, such evictions must be carried out in strict compliance with relevant human rights provisions which demand, inter alia, that such evictions must not be carried out on a discriminatory or arbitrary basis, that evictions must be carried out through legal procedures that ensure appropriate due process protections and that, owing to the universal right to housing which is enshrined, most notably, in article 11 of the International Covenant on Economic, Social and Cultural Rights, such evictions must not result in individuals being rendered homeless or vulnerable to other human rights violations,

Emphasizing that ultimate legal and political responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 (1990) on international technical assistance measures, adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (E/1990/23, annex III, para. 6), and General Comment No. 4 (1991) in which the Committee considered that instances of forced eviction were, prima facie, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, and in accordance with relevant principles of international law (E/1992/23, annex III, para. 18),

Noting with appreciation the adoption of General Comment No. 7 (1997) on forced evictions by the Committee on Economic, Social and Cultural Rights (E/C.12/1997/4), in which the Committee recognized, inter alia, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable groups all suffer disproportionately from the practice of forced eviction, and that women in all groups are especially vulnerable, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including home ownership and rights of access to property or accommodation, and given the particular vulnerability of women to acts of violence and sexual abuse when they are rendered homeless,

Noting also the provisions on forced evictions contained in the Habitat Agenda (A/CONF.165/14, annex II) adopted by the United Nations Conference on Human Settlements (Habitat II) convened in Istanbul in June 1996,

1. Reaffirms that forced evictions may often constitute gross violations of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment;

2. Strongly urges Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced eviction, by, inter alia, ensuring the right to security of tenure for all residents;

3. Also strongly urges Governments to confer legal security of tenure on all persons, including all women and men who are currently threatened with forced eviction, and to adopt all necessary measures giving full protection against unreasonable eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their rights and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups, and recognizing the obligation to ensure such provision in the event of any forced eviction;

5. Invites all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, to take fully into account the views contained in the present resolution and other related pronouncements under international human rights and humanitarian law on the practice of forced eviction;

6. Requests the High Commissioner for Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade Governments to comply with relevant international standards, to prevent planned forced evictions from taking place, and to ensure the provision of adequate compensation when forced evictions have already occurred;

7. Welcomes the report of the expert seminar on the practice of forced evictions, which was convened by the Secretary-General in Geneva from 11 to 13 June 1997 (E/CN.4/Sub.2/1997/7) and the comprehensive human rights guidelines on development-based displacement adopted by the expert seminar and annexed to its report;

8. Requests the Commission on Human Rights to invite all States to consider the comprehensive human rights guidelines on development-based displacement with a view to their approving guidelines for such displacement as soon as possible;

9. Decides to consider the issue of forced evictions at its fiftieth session under the agenda item entitled "The realization of economic, social and cultural rights", insofar as necessary to achieve the objectives outlined in paragraph 8 above, and to determine how most effectively to continue its consideration of the issue of forced evictions.

27th meeting
22 August 1997

[Adopted with a vote. See chap. VI.]

1997/7. The realization of the right to education, including education in human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles relating to the right to education enshrined in the International Bill of Human Rights, in particular article 26 of the Universal Declaration of Human Rights, article 28 of the Convention on the Rights of the Child and article 13 of the International Covenant on Economic, Social and Cultural Rights, which provide that everyone has the right to education,

Recalling the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, in particular part I, paragraph 33, and part II, paragraphs 78 to 82, thereof,

Recalling the World Declaration on Education for All: Action to Meet Basic Learning Needs, adopted at Jomtien, Thailand, on 9 March 1990,

Recalling Commission on Human Rights resolution 1996/44 of 19 April 1996,

Recalling the World Plan of Action on Education for Human Rights and Democracy, adopted by the International Congress on Education for Human Rights and Democracy convened by the United Nations Educational, Scientific and Cultural Organization at Montreal, Canada, in 1993,

Bearing in mind the United Nations Decade for Human Rights Education proclaimed by the General Assembly of the United Nations in its resolution 49/184 of 23 December 1994, which is to end in the year 2004,

Noting that the question of the right to education has not been sufficiently dealt with in the framework of the United Nations bodies responsible for the protection of human rights,

Noting with satisfaction the developing international awareness of the importance of education, particularly in the field of human rights, for human development,

Conscious of the central role played by human rights education in combating intolerance, racism and exclusion,

1. Encourages States to make all necessary efforts to ensure realization of the right to education and the promotion of human rights education at all levels of the educational system;

2. Decides to place the question of the right to education, and particularly human rights education, on the agenda of the Sub-Commission for the duration of the United Nations Decade for Human Rights education (1995-2004);

3. Requests Mr. Mustapha Mehedi to prepare, without incurring financial obligations, a working paper on the right to education, and particularly human rights education, for submission to the Sub-Commission at its fiftieth session, the purpose of the working paper being to explain the content of the right to education, taking account, in particular, of its social dimension and the freedoms it includes and of its dual civil and political rights and economic, social and cultural rights character, and to identify ways and means of promoting human rights education.

27th meeting
22 August 1997

[Adopted without a vote. See chap. VI.]

1997/8. Traditional practices affecting the health of women and the girl child

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1996/19 of 19 August 1996,

Considering that female genital mutilation is a cultural practice which profoundly affects the physical health and mental health of the girl child and of women who are its victims,

Recalling that the Universal Declaration of Human Rights, in its article 5, and the International Covenant on Civil and Political Rights, in its article 7, proclaim that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Bearing in mind General Assembly resolution 843 (IX) of 17 December 1954 which, considering that certain customs, ancient laws and practices relating to marriage and the family are inconsistent with the principles enunciated in the United Nations Charter and in the Universal Declaration of Human Rights, urged all States to take all appropriate measures with a view to abolishing them,

Recalling the obligations undertaken by all States which have ratified the international human rights covenants, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child,

1. Takes note with satisfaction of the report submitted by the Special Rapporteur, Mrs. Halima Embarek Warzazi (E/CN.4/Sub.2/1997/10 and Add.1);

2. Draws attention to article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women which provides that States parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes;

3. Recalls that article 24 of the Convention on the Rights of the Child expressly calls on States parties to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children;

4. Fully supports the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, which proclaims that gender-based violations, including those resulting from cultural prejudice, are incompatible with the dignity and worth of the human person and must be eliminated;

5. Appeals urgently to States to implement the Plan of Action on the elimination of traditional practices affecting the health of women and children (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1);

6. Takes note with satisfaction of the progress achieved by certain Governments in their struggle against harmful traditional practices and, in particular, against female genital mutilation;

7. Regrets, however, the small number of answers received, in particular from the Governments concerned, on the implementation of the Plan of Action;

8. Expresses its concern at the recent obstacles encountered by the campaign against female genital mutilation in certain countries;

9. Lends its support to the Governments and to the non-governmental organizations of the countries concerned and of all countries facing a similar situation in order that they may continue to work towards the total elimination of this cultural practice;

10. Appeals to all States concerned to intensify efforts to develop awareness of and to mobilize national public opinion concerning the harmful effects of the practice, in particular through education, information and training, in order to achieve the total elimination of female genital mutilation;

11. Also appeals to the international community to provide its material, technical and financial support to the non-governmental organizations and to the groups that are working with dedication to achieve the total elimination of this cultural practice that is harmful for girl children and women;

12. Commends the intergovernmental organizations concerned for the important contribution they are making to the efforts to eliminate harmful traditional practices and invites them to continue their activities aimed at supporting and strengthening the efforts being made by national and local organizations engaged in this struggle;

13. Requests the Special Rapporteur to submit to the Sub-Commission, at its next session, her follow-up report on the situation regarding the elimination of traditional practices affecting the health of women and children, in the framework of the Plan of Action.

27th meeting
22 August 1997
[Adopted without a vote. See chap. VII.]

1997/9. Implementation of the human rights of women and the girl child

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1996/21 of 29 August 1996 on the implementation of the human rights of women and the girl child,

Emphasizing that the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights,

Welcoming General Assembly resolution 51/65 of 12 December 1996, in which the Assembly expressed its particular concern for the problem of violence against women migrant workers,

Recalling the outcomes of the World Conference on Human Rights held in Vienna from 14 to 25 June 1993 (A/CONF.157/23), the International Conference on Population and Development held in Cairo from 5 to 13 September 1994 (A/CONF.171/13), the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development held in Copenhagen from 6 to 12 March 1995 (A/CONF.166/9), and the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women held in Beijing from 4 to 15 September 1995 (A/CONF.177/20),

Bearing in mind the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child, as well as the Declaration on the Elimination of Violence against Women,

Emphasizing that the production and use of statistics disaggregated by gender should be promoted as a fundamental tool for identifying and monitoring the participation of women in economic, political and social spheres, including education, management, and policy- and decision-making,

Welcoming the work and noting with appreciation the reports of the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy and of the Special Rapporteur of the Sub-Commission, Ms. Halima Embarek Warzazi, on

traditional practices affecting the health of women and children, the latest of which are contained in documents E/CN.4/1997/47 and Add.1-4 and E/CN.4/1997/10 and Add.1, respectively,

Deeply concerned at the continuing reports of grave abuses and acts of violence committed against women, and that some groups of women are especially vulnerable to acts of discrimination, violence and abuse based on gender, including women belonging to minority groups, indigenous women, refugee women, migrant workers, women living in rural communities, women living in poverty, women with disabilities, elderly women, women in situations of armed conflict and girl children,

Convinced of the need to eliminate all forms of sexual violence and sexual exploitation, including trafficking for the purposes of prostitution, other forms of commercial sex, domestic labour and servile forms of marriage, which are violations of the human rights of women and girl children and are incompatible with the dignity and worth of the human person,

Affirming that all violations of the human rights of women in situations of armed conflict, including in particular murder, systematic rape, sexual slavery and forced pregnancy, are flagrant violations of international human rights and humanitarian law,

Recognizing that the advancement of women in the process of development requires a further elaboration of international principles of equality regarding inheritance laws and practices,

1. Requests that, where appropriate, future studies submitted to the Sub-Commission include gender-disaggregated statistics and discuss ways in which gender affects the various forms of abuse to which women are subjected, the consequences of those abuses, the availability and accessibility of remedies, the relationship between the abuses suffered by women and the subordinate status of women in public and private life, any gaps in existing international standards of protection and gender-specific recommendations to remedy these violations;

2. Urges Governments and non-governmental, national and international organizations to collect and disseminate gender-disaggregated statistics and indicators to monitor the representation and participation of women at all levels of political, economic and social life, with special attention to the impact of the multiple barriers faced by many women who exist at the intersection of discrimination, based on race, gender and poverty;

3. Calls upon Governments to promote and support the elimination of biases in educational systems to counteract gender segregation of the labour market, enhance the employability of women and effectively improve women's skills and broaden women's access to career choices, in particular in science, new technologies and other areas of potential expansion of employment;

4. Also calls upon Governments to measure and value through existing and improved mechanisms the unpaid work of women, such as work in agriculture, food production, voluntary work, work in family businesses, natural resource management and domestic work, in order to evaluate fully the economic contributions of women;

5. Urges Governments to take increased measures to ensure that the economic and social rights of women are being fully promoted and implemented through their equal access to economic resources, including land, property rights and credit and savings schemes, such as women's banks and cooperatives;

6. Also urges Governments to undertake measures to harmonize national legislation and customary and traditional practices with international principles of equality with respect to the right of inheritance of women and girls;

7. Further urges Governments, in order to prevent and eliminate all forms of violence against women and girls, to adopt measures for the effective implementation of the Declaration on the Elimination of Violence against Women and to ensure just and effective remedies and compensation to victims, taking into special consideration women who are at high risk of violence, such as women migrant workers, refugee women and women in conflict situations;

8. Urges all Governments to ensure that protection against gender-based crimes is adequately reflected in all aspects of the Statute and Rules that are currently being negotiated for an International Criminal Court, and in particular that the crimes of rape, widespread or systematic rape, sexual slavery, forced prostitution and other gender-based crimes are addressed throughout the principles, definitions, and rules of evidence and procedure for an International Criminal Court;

9. Calls upon all Governments that have not yet done so to ratify the Convention on the Elimination of All Forms of Discrimination against Women, without resort to reservations that are contrary to the object and purpose of the Convention or otherwise incompatible with international treaty law;

10. Also calls upon Governments to criminalize trafficking in women and girls in all its forms and to condemn and penalize all offenders, including persons acting under governmental authority and intermediaries, whether their offences were committed in their own or in a foreign country, while ensuring that the victims of these practices are not penalized;

11. Calls upon the multilateral financial institutions to take into consideration at all times the need of developing countries to allocate funds to ensure the economic and social advancement of women;

12. Calls upon the Secretary-General to take all steps necessary to ensure that the Committee on the Elimination of Discrimination against Women has equal status and resources with other human rights treaty monitoring bodies and to strengthen coordination among these bodies through the systematic exchange of information and the convening of future round tables to explore gender issues of common concern;

13. Urges the Secretary-General, in cooperation with the Office of the Special Adviser on Gender Issues and the Advancement of Women, to take the necessary steps to strengthen the function of the Focal Point for Women and to ensure the full implementation of the strategic plan of action for the improvement of the status of women in the Secretariat and in particular, to fulfil his target of having women hold 50 per cent of managerial and decision-making positions by the year 2000 as reaffirmed by the General Assembly in resolution 51/67 of 12 December 1996;

14. Fully supports the request of the Commission on the Status of Women that the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Special Rapporteur on violence against women and all other relevant rapporteurs and working groups, including treaty body experts, be invited to participate in the discussion at the forty-second session of the Commission on the Status of Women on the critical areas of concern "human rights of women" and "the girl child";

15. Supports the decision of the Commission on the Status of Women, at its forty-first session, to renew the mandate of the in-session open-ended working group on the elaboration of a draft optional protocol to the

Convention on the Elimination of All Forms of Discrimination against Women and urges the working group to accelerate its consideration of the development of an optional protocol;

16. Decides to consider more fully the implications of the Beijing Platform for Action for the work of the Sub-Commission in such areas as women and poverty, the role of women in global development and the promotion of human rights, as well as additional measures to combat violence against women, including trafficking, at its fiftieth session under the same agenda item.

27th meeting
22 August 1997

[Adopted without a vote. See chap. VII.]

1997/10. Permanent forum within the United Nations system for indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the purposes and principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind the recommendation contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights that the establishment of a permanent forum for indigenous people in the United Nations system should be considered (A/CONF.157/23, para. II.32),

Recalling General Assembly resolutions 48/163 of 21 December 1993 and 50/157 of 21 December 1995 and Commission on Human Rights resolution 1997/30 of 11 April 1997,

Deeply convinced that the establishment of a permanent forum cannot be considered as an alternative to the continued existence of the Working Group on Indigenous Populations,

Taking note of the reports of the workshops held in Copenhagen and Santiago de Chile, in accordance with Commission on Human Rights resolutions 1995/30 and 1997/30 respectively (E/CN.4/Sub.2/AC.4/1995/7 and Add.1-3 and E/CN.4/Sub.2/AC.4/1997/CRP.1),

Taking into account the comments and suggestions of the members of the Working Group and other participants at the fifteenth session of the Working Group on Indigenous Populations on this matter,

1. Recommends that a permanent forum within the United Nations system be established as soon as possible in the course of the International Decade of the World's Indigenous People and that its mandate include, inter alia, questions relating to the rights of indigenous peoples and all matters contained in the programme of activities for the International Decade;

2. Endorses in particular the recommendation of the Santiago workshop and the Working Group on Indigenous Populations that the Commission on Human Rights at its fifty-fourth session consider how to further the process of establishing a permanent forum for indigenous peoples in the United Nations, inter alia through the drafting of concrete proposals to this effect, bearing in mind the possibility of submitting the matter to the Economic and Social Council for action;

3. Decides to recommend to the Commission on Human Rights the following draft decision for adoption:

"The Commission on Human Rights, taking note of resolution 1997/10 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to request the Working Group on Indigenous Populations to focus on the questions of membership and participation in and the mandate of the possible permanent forum for indigenous peoples, with a view to the early establishment of such a forum within the present structure of the United Nations system, preferably under the Economic and Social Council."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/11. The relationship between the enjoyment of economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling that, under the Charter, one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights for all,

Reaffirming the commitment of States Members of the United Nations, contained in article 56 of the Charter, to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in article 55 of the Charter,

Conscious that the Universal Declaration of Human Rights provides that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized,

Reaffirming the Declaration on Social Progress and Development proclaimed by the General Assembly in its resolution 2542 (XXIV) of 11 December 1969, the Declaration and Programme of Action on the Establishment of a New International Economic Order proclaimed by the General Assembly in its resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, the Charter of Economic Rights and Duties of States adopted by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, the Declaration of the Principles of International Cultural Cooperation proclaimed by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966, General Assembly resolution 1803 (XVII) of 14 December 1962, entitled "Permanent sovereignty over natural resources" and the resolutions adopted by the World Summit for Social Development (A/CONF.166/9, chap. I),

Mindful that in the Vienna Declaration and Programme of Action (A/CONF.157/23) the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of all fundamental human rights, reaffirmed that the human person was the central subject of development and underlined the need for a concerted effort to ensure recognition of economic, social and cultural rights at the national, regional and international levels,

Noting that the Working Group on the Right to Development identified the concentration of economic and political power in a few countries and corporations as one of the obstacles to the realization of the right to development,

Noting also that lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment both at the national and the international level,

Taking into account the fact that the Working Group on the Right to Development recommended the adoption of new international legislation and the creation of effective international institutions to regulate the activities of transnational corporations and banks, and in particular to resume the multilateral negotiations on a code of conduct for transnational corporations,

Bearing in mind the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy adopted by the Governing Body of the International Labour Office in November 1977,

Recognizing that the activities of the various organizations in the United Nations system should be closely interrelated and that it is necessary to draw on all the efforts made in the various disciplines relating to the human person in order to promote all human rights effectively,

Recalling its resolutions 1989/20 and 1989/21 of 31 August 1989, 1990/16 of 30 August 1990, 1991/27 of 29 August 1991, 1992/29 of 27 August 1992, 1993/36 of 25 August 1993, 1993/40 of 26 August 1993, 1994/40, 1994/41 and 1994/48 of 26 August 1994, 1995/31 of 24 August 1995 and 1996/39 of 30 August 1996,

Recalling also Commission on Human Rights resolutions 1989/15 of 2 March 1989, 1990/17 and 1990/18 of 23 February 1990, 1991/13 of 22 February 1991, 1992/9 of 21 February 1992, 1993/12 of 26 February 1993, 1994/11 of 25 February 1994, 1995/13 of 25 February 1995, 1996/15 of 11 April 1996 and 1997/9 of 3 April 1997,

Taking into account the background document (E/CN.4/Sub.2/1995/11) prepared by the Secretary-General in accordance with its resolution 1994/37 and the report (E/CN.4/Sub.2/1996/12 and Corr.1) submitted by the Secretary-General in accordance with its resolution 1995/31,

1. Reaffirms the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986, underlining the multidimensional, integrating and dynamic character of this right which favours a partnership for development and constitutes a relevant framework for international cooperation and national action aiming at universal and effective respect for all human rights in their universality, indivisibility and interdependence;

2. Affirms that the global and multidimensional approach defined in the Declaration on the Right to Development should provide a basis for

the work undertaken on the relationship between the enjoyment of human rights and the working methods and activities of transnational corporations;

3. Decides to entrust Mr. El Hadji Guissé with the task of preparing, without incurring financial implications, a background document on the question of the relationship between the enjoyment of human rights and the working methods and activities of transnational corporations, for submission to the Sub-Commission and to the Working Group referred to below;

4. Decides to establish, for a three-year period, an inter-sessional working group of the Sub-Commission, composed of five of its members, to examine the working methods and activities of transnational corporations, with the following mandate:

(a) To identify and examine the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and the right to development, as well as civil and political rights;

(b) To investigate, monitor, examine, receive and gather information on the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and of the right to development, as well as of civil and political rights;

(c) To make recommendations and proposals aimed at regulating the methods of work and activities of transnational corporations in order to ensure that these are in keeping with the economic and social objectives of the countries in which they operate, and to promote the enjoyment of economic, social and cultural rights and of the right to development;

(d) To prepare each year a list of countries and transnational corporations, indicating, in United States dollars, their gross national product or financial turnover, respectively, and to submit its first report to the Sub-Commission at its fifty-first session;

5. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights ,

Taking note of resolution 1997/11 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Decides to endorse the decision of the Sub-Commission to establish, for a three-year period, an inter-sessional working group of the Sub-Commission, composed of five of its members, to examine the working methods and activities of transnational corporations, with the following mandate:

(a) To identify and examine the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and of the right to development, as well as of civil and political rights;

(b) To investigate, monitor, examine, receive and gather information on the effects of the working methods and activities of transnational corporations on the enjoyment of economic, social and cultural rights and of civil and political rights;

(c) To make recommendations and proposals aimed at regulating the working methods and activities of transnational corporations in order to ensure that these methods and activities are in keeping with the economic and social objectives of the countries in which they operate, and to promote enjoyment of economic, social and cultural rights and of the right to development;

(d) To prepare each year a list of countries and transnational corporations, indicating, in United States dollars, their gross national product or financial turnover, respectively, and to submit its first report to the Sub-Commission at its fifty-first session."

27th meeting
22 August 1997

[Adopted without a vote. See chap. VI.]

1997/12. Study on indigenous land rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Acknowledging that indigenous peoples in many countries have been deprived of their human rights and fundamental freedoms and that many of the human rights problems faced by indigenous peoples are linked to the historical and continuing deprivation of ancestral rights over lands, territories and resources,

Recognizing the profound spiritual, cultural, social and economic relationship that indigenous peoples have to their total environment and the urgent need to respect and recognize the rights of indigenous peoples to their lands, territories and resources,

Acknowledging that lack of secure land rights, in addition to continued instability of State land tenure systems and impediments to efforts for the promotion and protection of indigenous communities and the environment, are imperilling the survival of indigenous peoples,

Recognizing that United Nations organs and Member States have increasingly acknowledged that lands and natural resources are essential to the Economic and cultural survival of indigenous peoples, and that some States have enacted legal measures that uphold indigenous land rights or have established procedures for arriving at legally binding agreements on indigenous land-related issues,

Mindful of the development of relevant international standards and programmes which promote and affirm the rights of indigenous peoples to their lands and resources, in particular the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, Agenda 21 adopted by the United Nations Conference on Environment and Development, World Bank Operational Directive 4.20, the draft Inter-American Declaration on the Rights of the Indigenous Peoples developed by the Inter-American Commission on Human Rights of the Organization of American States, and the draft United Nations declaration on the rights of indigenous people,

Recognizing that despite these international and national advances, problems continue to abound which impede the effective enjoyment of indigenous land rights,

Recalling that many States in which indigenous peoples live have yet to enact laws or policies regarding indigenous land claims or in other instances have not provided adequate implementing mechanisms concerning indigenous land rights that are mutually acceptable to the parties concerned,

Recalling also the activity of the United Nations, which lays the groundwork for a thorough inquiry into the subject of indigenous land rights, in particular, the Sub-Commission's study of the problem of discrimination against indigenous populations (E/CN.4/Sub.2/1986/7 and Add.1-4),

Recalling further the report and recommendations of the expert seminar on practical experiences regarding indigenous land rights and claims, held in Whitehorse, Canada, in March 1996 (E/CN.4/Sub.2/AC.4/1996/6),

Recalling its resolution 1996/38 of 29 August 1996, in which it recommended that the Commission on Human Rights authorize the appointment of Ms. Erica-Irene A. Daes as Special Rapporteur to conduct a comprehensive study on indigenous land rights,

Recalling also Commission on Human Rights decision 1997/114 of 11 April 1997 and Economic and Social Council decision 1997/... of ... July 1997 endorsing the appointment of Ms. Erica-Irene A. Daes as Special Rapporteur with the mandate to prepare a working paper on indigenous people and their relationship to land with a view to suggesting practical measures to address ongoing problems in this regard,

Having heard the important introductory statement of the Special Rapporteur on indigenous peoples and their relationship to land,

Having considered the comprehensive preliminary working paper on indigenous peoples and their relationship to land submitted by the Special Rapporteur (E/CN.4/Sub.2/1997/17 and Corr.1),

1. Expresses its deep appreciation and thanks to the Special Rapporteur for her introductory statement and the working paper on indigenous peoples and their relationship to land;

2. Requests the Secretary-General to transmit the working paper to Governments, indigenous peoples and intergovernmental and non-governmental organizations, as soon as possible, for their comments and suggestions;

3. Requests the Special Rapporteur to prepare her final working paper on the basis of the comments and information received from Governments, indigenous peoples and others and to submit it to the Working Group on Indigenous Populations at its sixteenth session and the Sub-Commission at its fiftieth session;

4. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/12 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, requests the Secretary-General to provide the Special Rapporteur with the assistance necessary to enable her to

complete her final working paper in accordance with Commission on Human Rights decision 1997/114 of 11 April 1997 and Economic and Social Council decision 1997/... of ... July 1997."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/13. Protection of the heritage of indigenous people

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting decision 1997/112 of 11 April 1997 of the Commission on Human Rights, approved by decision 1997/... of the Economic and Social Council, in which the Commission recommended that Ms. Erica-Irene A. Daes be entrusted with a continuing mandate to exchange information with all parts of the United Nations system involved in activities concerned with the heritage of indigenous people, with the purpose of facilitating cooperation and coordination and of promoting the full participation of indigenous people in those efforts,

Noting also that the Commission, in decision 1997/112, requested the Secretary-General to provide the Special Rapporteur of the Sub-Commission with all the assistance necessary to accomplish her work,

Recalling the Special Rapporteur's final and supplementary reports (E/CN.4/Sub.2/1995/26 and E/CN.4/Sub.2/1996/22) and welcoming the report of the technical meeting on the protection of the heritage of indigenous people (E/CN.4/Sub.2/1997/15),

1. Expresses its appreciation to the Special Rapporteur, Ms. Erica-Irene A. Daes, for her important and constructive work on the protection of the heritage of indigenous people;

2. Requests the Special Rapporteur to continue to exchange information with Governments, indigenous peoples and all parts of the United Nations system on the heritage of indigenous people;

3. Requests the United Nations High Commissioner for Human Rights to convene, prior to the sixteenth session of the Working Group on Indigenous Populations and the fiftieth session of the Sub-Commission, a seminar on the draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/1994/31, annex) with the participation of the

Special Rapporteur and representatives of Governments, United Nations bodies and organizations, specialized agencies, organizations of indigenous peoples and competent indigenous persons;

4. Decides to recommend the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/13 of 22 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the recommendation of the Sub-Commission that the United Nations High Commissioner for Human Rights organize a seminar on the draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/1994/31, annex) with the participation of the Special Rapporteur, Ms. Erica-Irene A. Daes, and representatives of Governments, United Nations bodies and organizations, specialized agencies, organizations of indigenous peoples and competent indigenous persons."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/14. Working Group on Indigenous Populations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without discrimination as to race, sex, language or religion,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous peoples,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

Taking note with appreciation of the report of the Working Group on Indigenous Populations on its fifteenth session (E/CN.4/Sub.2/1997/14) and, in particular, of its conclusions and recommendations,

Taking note also of Commission on Human Rights resolution 1993/30 of 5 March 1993, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

Welcoming the decision of the Working Group on Indigenous Populations to highlight specific themes during its fifteenth session and the fruitful discussions on issues relating to indigenous peoples and environment, land and sustainable development, and to indigenous peoples and health,

Mindful of the relevant recommendations adopted by the World Conference on Human Rights, in particular those contained in Part I, paragraph 20 and Part II, paragraphs 28 to 32 of the Vienna Declaration and Programme of Action (A/CONF.157/23),

1. Expresses its deep appreciation to the Working Group on Indigenous Populations and in particular to its Chairperson-Rapporteur, Ms. Erica-Irene Daes, for the important and constructive work accomplished during its fifteenth session;

2. Requests the Secretary-General to transmit the report of the Working Group on its fifteenth session to indigenous organizations, Governments and intergovernmental and non-governmental organizations concerned, as well as to all thematic rapporteurs, special representatives, independent experts and working groups;

3. Requests that the report of the Working Group be made available to the Commission on Human Rights at its fifty-fourth session;

4. Recommends that the Working Group cooperate as a body of experts in any conceptual clarifications or analysis which might assist the working group established by the Commission on Human Rights in its resolution 1995/32 of 3 March 1995 to elaborate further the draft United Nations declaration on the rights of indigenous peoples;

5. Expresses its appreciation to the Chairperson-Rapporteur of the Working Group for her supplementary working paper on the concept of "indigenous peoples" (E/CN.4/AC.4/1997/2);

6. Recommends that the Working Group on Indigenous Populations, at its sixteenth session, continue to address indigenous health and indigenous

land rights issues, and to include "indigenous peoples: education and language" as the principal item on the agenda of the sixteenth session;

7. Requests the Secretary-General to invite Governments, intergovernmental organizations and indigenous and non-governmental organizations to provide information and data, in particular on matters relating to "indigenous peoples: education and language", as well as health and land rights, to be made available as background papers at the session;

8. Requests the High Commissioner for Human Rights to encourage the undertaking of studies with respect to the rights to food and adequate nutrition of indigenous peoples, as they relate to their access to land, cultural heritage and health, and, as appropriate, call for an international workshop on the theme with the participation of Governments, United Nations bodies, programmes and organizations, and indigenous and non-governmental organizations with a view to evaluating the present access to adequate food and the nutritional status of indigenous peoples and to contributing to practical measures to improve the situation;

9. Requests the Chairperson-Rapporteur of the Working Group to inform the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations that the Working Group on Indigenous Populations at its sixteenth session will highlight education and language issues, so that the Board can bear this in mind when it meets for its eleventh session;

10. Requests the Secretary-General to prepare an annotated agenda for the sixteenth session of the Working Group containing, inter alia, the following items: standard-setting activities, including a sub-item on "possible future standard-setting activities, including guidelines or codes of conduct for private sector energy and mining concerns"; review of developments, including sub-items on "review of developments: general statements", "review of developments: indigenous peoples - education and language", "review of recent developments: health and indigenous peoples"; study on indigenous peoples and their relationship to land; a permanent forum for indigenous peoples; the International Decade of the World's Indigenous People, including a sub-item on "preparations for the mid-point review of the Decade"; and the study on treaties, agreements and other constructive arrangements between States and indigenous peoples;

11. Recommends that the Commission on Human Rights request the Economic and Social Council to authorize the Working Group to meet for five working days prior to the fiftieth session of the Sub-Commission;

12. Decides to recommend the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/14 of 22 August 1997, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the request of the Sub-Commission to recommend that the Economic and Social Council authorize the Working Group on Indigenous Populations to meet for five working days prior to the fiftieth session of the Sub-Commission."

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

1997/15. International Decade of the World's Indigenous People

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that one of the Purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling General Assembly resolution 48/163 of 21 December 1993, in which the Assembly proclaimed the International Decade of the World's Indigenous People,

Convinced that the science of biology, and progress and developments in biological sciences must be in the interests of human beings and human life and not vice versa,

Deeply concerned that understanding of human nature has been significantly modified by the rapid rise of developments in biotechnology as a science, particularly in the modification, removal and replacement of human genes, and that indigenous people are most vulnerable to the risk of being singled out for human genetic research and human gene patenting by the biotechnology industry,

Recalling that the goal of the Decade is the strengthening of international cooperation for the solution of problems faced by indigenous peoples in such areas as human rights, the environment, development, education and health,

Recalling also General Assembly resolution 50/157 of 21 December 1995, in which the Assembly adopted the comprehensive programme of activities for the International Decade of the World's Indigenous People,

Having considered the report of the Working Group on Indigenous Populations on its fifteenth session (E/CN.4/Sub.2/1997/14),

1. Welcomes the observance of the International Day of the World's Indigenous People on 9 August;

2. Also welcomes the recommendation made by the Commission on Human Rights in its resolution 1997/32 of 11 April 1997 that the United Nations High Commissioner for Human Rights assume responsibility for coordination of the International Decade;

3. Recommends that the Coordinator for the Decade consider holding a special fund-raising meeting with interested permanent missions and the members of the Advisory Group to encourage financial contributions to the United Nations Trust Fund for the Decade and the United Nations Voluntary Fund for Indigenous Populations, as well as the secondment of qualified staff, including indigenous persons, to assist with the work of the High Commissioner/Centre for Human Rights relating to the programme for indigenous peoples;

4. Also recommends that attention continue to be given to improving the extent of the participation of indigenous peoples in planning and implementing the activities of the Decade;

5. Further recommends that in accordance with General Assembly resolution 50/157 of 21 December 1995, the draft United Nations declaration on the rights of indigenous peoples be adopted as early as possible in the International Decade;

6. Welcomes the reports of the workshops held in Copenhagen and Santiago de Chile, in accordance with Commission on Human Rights resolutions 1995/30 and 1997/30 respectively (E/CN.4/Sub.2/AC.4/1995/7 and Add.1-3 and E/CN.4/Sub.2/AC.4/1997/CRP.1);

7. Congratulates the Advisory Group for the Voluntary Fund for the Decade for the work it has accomplished, for its initiatives and for the transparency of its working methods and decisions;

8. Takes note of the work of the United Nations Educational, Scientific and Cultural Organization in the field of the human genome to complete the preliminary draft of a universal declaration on the human genome and human rights, a standard-setting framework urgently needed to ensure that such research and its applications are developed in a harmonious way that demonstrates regard for human dignity, in particular for the dignity and way of life of indigenous peoples;

9. Recognizes the need for a systematic analysis of the problems faced by indigenous peoples when matters of biodiversity, genetics and the use of biological resources and sustainability are being discussed, negotiated and determined, in order to protect indigenous peoples' cultures, way of life and survival, within the context of the programme of activities for the International Decade;

10. Expresses its appreciation to the Government of Spain for its offer to host a workshop of indigenous journalists in Madrid in 1998;

11. Urges the High Commissioner/Centre for Human Rights, in consultation with the Government of Spain to accelerate the relevant procedure so that the planned workshop of indigenous journalists can take place early in 1998, with the participation of government representatives, indigenous journalists, competent United Nations agencies, including the Information Service of the United Nations Office in Geneva, the Chairperson-Rapporteur of the Working Group on Indigenous Populations and the International Press Institute;

12. Requests the Working Group on Indigenous Populations, at its sixteenth session to prepare for the mid-point review of the International Decade of the World's Indigenous People in 1999;

13. Welcomes the recommendation made by the Commission on Human Rights in its resolution 1997/32 that the High Commission/Centre for Human Rights convene a workshop in the spring of 1998 for research and higher education institutions focusing on indigenous issues.

27th meeting
22 August 1997

[Adopted without a vote. See chap. IX.]

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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 13 (c)

CONCLUDING ITEMS

ADOPTION OF THE REPORT ON THE FORTY-NINTH SESSION

Draft report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-ninth session

Rapporteur: Mr. Marc Bossuyt

CONTENTS*

Chapter		Paragraphs	Page
II.	Draft resolutions and decisions adopted by the Sub-Commission at its forty-ninth session		
	A. Resolutions		
	1997/16. Methods of work of the Sub-Commission		
	1997/17. Organization of the sessions of the Sub-Commission		

* E/CN.4/Sub.2/1997/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights, will be contained in documents E/CN.4/Sub.2/1997/L.11 and Addenda.

CONTENTS (continued)

Chapter			Paragraphs	Page
II.	A.	Resolutions (continued)		
		1997/18. Promotion of the realization of the right of access of all to drinking water supply and sanitation services		
		1997/19. Women and the right to adequate housing and to land and property . .		
		1997/20. Question of the impunity of perpetrators of violations of human rights (economic, social and cultural rights)		
		1997/21. United Nations Voluntary Trust Fund on Contemporary Forms of Slavery . .		
		1997/22. Report of the Working Group on Contemporary Forms of Sl very . . .		
		1997/23. Prevention of discrimination against and protection of minorities		
		1997/24. Situation of street children and minor detainees		
		1997/25. Juvenile justice		

1997/16. Methods of work of the Sub-Commission

The Sub-Commission on Prevention of discrimination and protection of Minorities,

Taking note with appreciation of the working paper prepared by Mr. Hatano pursuant to its decision 1996/114 (E/CN.4/Sub.2/1997/3),

Welcoming the establishment of a sessional working group on the methods of work of the Sub-Commission, chaired by Mr. Bossuyt,

Noting that the sessional working group was unable, owing to lack of time, to complete its consideration of the working paper,

Hoping that ample time, either in public or private meetings, will be allocated to complete the consideration of the working paper during its next session,

1. Decides to entrust Mr. Ribot Hatano with the preparation of a revised working paper containing a compilation of rules of procedure, guidelines, decisions and practices, applicable to the work of the Sub-Commission, taking full account of the opinions expressed both at the sessional working group and the Sub-Commission, including written comments submitted to the Secretariat during the forty-ninth session, and to submit his report to the Sub-Commission at its fiftieth session;

2. Requests the Secretary-General to provide Mr. Hatano with all the assistance needed for his work, especially the translation into English of the comments referred to in the preceding paragraph and their transmittal to him as soon as possible and not later than the end of November.

35th meeting
27 August 1997
[Adopted without a vote. See chap. III.]

1997/17. Organization of the sessions of the Sub-Commission

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind that in its resolution 1997/22 of 11 April 1997 the Commission on Human Rights requested the Sub-Commission to continue thoroughly reviewing its working methods with a view to improving further its efficiency,

Recalling that in the same resolution the Commission called upon the Sub-Commission to focus on its primary role as an advisory body of the Commission, to facilitate efficient and effective participation of

non-governmental organizations, to devote sufficient time at its forty-ninth session to the discussion of its working methods and to prepare specific recommendations on that issue for consideration by the Commission,

Mindful of the in-depth debate held at its forty-eighth session on the issue of possible alternatives to how its annual session is organized,

Considering that the present form of its sessions - four weeks of meetings of five working days per week, with at least two daily plenary or in-session committee meetings and a total of not less than 40 meetings per session - is not conducive to improving its effectiveness as an advisory body, since it does not permit an in-depth review and analysis of all the documentation and initiatives submitted for its consideration as a collective body, nor facilitate thorough consultations among its expert members and more constructive exchanges of views and opinions between them and participating governmental and non-governmental observer delegations,

Recalling its decision 1996/112 of 29 August 1996, in which it requested the Secretary-General to examine the financial and other implications of alternatives to the present organization of its sessions,

Having considered the note submitted by the Secretary-General on this subject (E/CN.4/Sub.2/1997/2),

Considering that, prima facie, a five-week session of five working days per week with one week of two daily meetings and four weeks of only one meeting per day offers a better possibility to enhance its capability to play the role of an advisory body to the Commission,

Taking into account that according to the Secretary-General's estimates obtained from the Conference Services Division of the Secretariat and the Administrative and System Support Section of the High Commissioner/Centre for Human Rights (E/CN.4/Sub.2/1997/2, annexes I and II), in the worst possible situation the cost of the five-week-session option mentioned in the preceding paragraph will not exceed 38 thousand dollars, or 1.86 per cent, more than the cost of the present four-week arrangement for its annual sessions,

1. Requests the Commission on Human Rights and the Economic and Social Council to authorize it, on a trial basis, to organize its fiftieth, fifty-first and fifty-second sessions in the form of five-week sessions of five working days per week, with one week of two daily meetings and four weeks of only one meeting per day, with a total of 30 meetings per session;

2. Decides to re-examine this issue at its fifty-second session under the relevant agenda item, in the light of the experience gained during its fiftieth and fifty-first sessions;

3. Recommends the following resolution to the Commission on Human Rights for adoption:

"The Commission on Human Rights,

Taking into account Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1997/17 of 27 August 1997,

Bearing in mind the financial and other implications of alternatives to the present organization of the Sub-Commission's sessions (E/CN.4/Sub.2/1997/2, annexes I and II),

1. Endorses the Sub-Commission's request to be authorized to organize, on a trial basis, its next three sessions in 1998, 1999 and 2000 in the form of five-week sessions of five working days per week, with one week of two daily meetings and four weeks of only one meeting per day, with a total of 30 meetings per session;

2. Requests the Economic and Social Council to authorize the Sub-Commission to organize its fiftieth, fifty-first and fifty-second sessions in the manner indicated in paragraph 1 above."

35th meeting
27 August 1997
[Adopted by a roll-call vote of 12 votes to 7, with 5 abstentions. See chap. III.]

1997/18. Promotion of the realization of the right of access of all to drinking water supply and sanitation services

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Mindful that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and a wide range of additional texts provide unequivocally that all persons are entitled to the full realization of economic, social and cultural rights,

Taking note of the Declaration on the Right to Development (General Assembly resolution 41/128 dated 4 December 1986, annex),

Recalling section I, paragraph 10, of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights, inter alia, reaffirmed the right to development as a universal and inalienable right and an integral part of human rights, and urged States and the international community to promote effective international cooperation for the realization of the right to development and the elimination of obstacles to development,

Taking account of the results of the World Summit for Social Development, held at Copenhagen from 6 to 12 March 1995, especially the recommendations of its Programme of Action concerning the United Nations system (A/CONF.166/9), inter alia, the need to strengthen United Nations operational activities for development in order to implement the World Summit outcome, and the United Nations system's capacity for gathering and analysing information and developing indicators of social development, taking into account the work carried out by different countries, particularly by developing countries (para. 99 (e)),

Taking particular account of the provisions of chapter 18 of Agenda 21 on the protection of the quality and supply of fresh-water resources, the programme adopted by the United Nations Conference on Environment and Development,

Aware that all States have legally binding obligations to respect, protect and fulfil economic, social and cultural rights,

Deeply concerned to note that 1.4 billion people in the world are still deprived of access to drinking water supply and that some 4 billion lack decent conditions of sanitation,

Affirming the right of each woman, man and child to access to drinking water supply and sanitation services in order to live in dignity, security and peace,

Taking into consideration the International Drinking Water Supply and Sanitation Decade (1981-1990), and the celebration, on 22 March of each year, of the World Day for Water (General Assembly resolution 45/181 of 21 December 1990 and resolution 47/193 of 22 December 1992 respectively),

Bearing in mind the objectives of a "20-20" type compact concerning in particular the access of all to drinking water supply and sanitation services, as expressed in the UNDP "Human Development Report 1994",

Reiterating the fundamental principles of equality of opportunity, human dignity, equity and justice,

Reaffirming also the inherent link between the enjoyment of all human rights, in particular economic, social and cultural rights, and the right of each woman, man and child to have access to drinking water supply,

1. Reaffirms the Declaration on the Right to Development, as proclaimed by the General Assembly in resolution 41/128 of 4 December 1986, where stress is laid on the multidimensional, integrated and dynamic character of this right which promotes partnership for development and constitutes a relevant framework for international cooperation and national action aimed at universal and effective observance of all human rights in their universality, indivisibility and interdependence;

2. Affirms that the global and multidimensional approach, as defined in the Declaration on the Right to Development, should constitute a basis for work to be carried on on the promotion of the realization of the right of access of all to drinking water supply and sanitation services;

3. Decides to entrust to Mr. El Hadji Guissé the task of drafting, without financial implications, a working paper on the question of the promotion of the realization of the right of access of all to drinking water supply and sanitation services;

4. Requests Mr. El Hadji Guissé to submit his working paper to it at its fiftieth session;

5. Decides to consider the question of the promotion of the realization of the right of access of all to drinking water supply and sanitation services under the agenda item entitled "The realization of economic, social and cultural rights", and to determine the most effective way of continuing consideration of the question of the promotion of the realization of this right.

35th meeting
27 August 1997

[Adopted without a vote. See chap. VI.]

1997/19. Women and the right to adequate housing and to land and property

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the recognition and legal foundations of the right to adequate housing contained in, inter alia, the Universal Declaration of Human Rights

(arts. 7, 12, 17, 25, para. 1), the International Covenant on Economic, Social and Cultural Rights (arts. 2, para. 2., 11, para. 1), the International Covenant on Civil and Political Rights (arts. 2, para. 1, 17, 26) and its Optional Protocol, the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (e) (iii)), the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling also general comment No.4 (1991) on the right to adequate housing and general comment No. 7 (1997) on forced evictions adopted by the Committee on Economic, Social and Cultural Rights,

Recalling further Commission on Human Rights resolution 1993/77 of 10 March 1993 entitled "Forced evictions",

Recalling its own resolutions 1991/26 of 29 August 1991, 1992/26 of 27 August 1992, 1993/36 of 25 August 1993, 1994/38 of 26 August 1994 and 1995/27 of 24 August 1995, entitled "Promoting the realization of the human right to adequate housing",

Recognizing that women face particular constraints in securing and maintaining their right to housing because of the continued existence of gender-biased laws, policies, customs and traditions which exclude women from acquiring land, security of tenure and inheritance rights to land and property and owing to women's reproductive role, and that these constraints are particularly acute for women who also face discrimination on one or more other grounds, including race, ethnicity, creed, disability, age, socio-economic status and marital status,

Alarmed that more women than men live in absolute poverty and that female-headed households, which comprise one fourth of all households worldwide, are very often among the poorest,

Concerned that continued discrimination faced by women in all matters relating to land and property is the single most critical factor in the perpetuation of gender inequality and poverty,

Disturbed that millions of women worldwide suffer from extremely poor housing and living conditions, including severe pollution, overcrowding, polluted water and inadequate sanitation, all of which give rise to serious mental and physical health problems and cause thousands of women to die, or to live in a permanent state of ill-health,

Aware that women are largely excluded from the housing and planning development process, which leads to the underutilization of their knowledge and experience and results in development policies and projects that are insensitive to women's requirements for the improvement of their housing, neighbourhoods and communities,

Aware also that women experience discrimination by being denied access to, inter alia, the right to rent, own or inherit housing, land and property; economic resources, including agricultural and housing credits and loans; economic opportunities through employment and self-employment, training, information and education; health care and social support services, and that such discrimination has a particularly adverse impact on female-headed households,

Concerned that women and children suffer disproportionately from the practice of forced eviction and that women bear the brunt of traumatized and dislocated communities,

Deeply concerned that inadequate and insecure housing and living conditions contribute to, cause and are often the result of violence against women and that women's lack of security of tenure, resulting from domestic violence as well as gender-biased laws, customs and traditions which exclude women from renting, owning or inheriting land or property, exposes women to homelessness and landlessness,

Stressing that the violation of women's right to adequate housing results in the violation of other civil, cultural, economic, political and social rights such as the right to equality before the law and equal protection of the law, the right to life, the right to security of the person, the right to work, the right to health and the right to education,

Aware that the Secretary-General, in his report "Women in urban areas: population, nutrition and health factors for women in development, including migration, drug consumption and AIDS" (E/CN.6/1994/3) submitted to the Commission on the Status of Women at its thirty-eighth session, stated that security of tenure promotes greater participation of women in community management and that this, in turn, helps households escape the poverty trap,

Mindful that the Habitat Agenda (A/CONF.165/14), adopted by the United Nations Conference on Human Settlements (Habitat II), recognizes

women's right to adequate housing and to land and property and the importance of all actors adopting and implementing policies, laws and programmes aimed at the realization of these rights,

Mindful also that the Platform for Action (A/CONF.177/20) adopted by the Fourth World Conference on Women recognized the links between women's poverty and lack of access to economic opportunities including land ownership and inheritance,

Noting that the Plan of Action adopted by the World Food Summit, recognized women's right to land in relation to their right to food,

Noting also that the Special Rapporteur on violence against women of the Commission on Human Rights in her preliminary report (E/CN.4/1995/42) noted that economic and social factors, including inadequate housing can cause domestic violence,

Noting further resolution 16/7 of 7 May 1997 entitled "The realization of the human right to adequate housing" adopted by the United Nations Commission on Human Settlements in which it recommended that a joint programme be elaborated between the United Nations Centre for Human Rights and the United Nations Centre for Human Settlements (Habitat) to assist States with the implementation of their commitments to ensure the realization of the right to adequate housing as provided for in international instruments,

1. Reaffirms the universal nature and existence of the right to adequate housing in terms of its relevance to all human rights with respect to women;

2. Encourages Governments to comply fully with all their international and regional obligations and commitments concerning the legally recognized rights of women to land, property, inheritance, adequate housing including security of tenure, an adequate standard of living and the continuous improvement of living and housing conditions and to create opportunities for women to acquire training, education and information in all matters related to these rights;

3. Reminds Governments of the critical importance of providing women with legal resources and human rights information and education to address the violence they experience in relation to housing, and to enact and enforce laws and policies that protect women against violence in this context;

4. Recognizes the importance in this regard of international cooperation and the need for cooperation between Governments, non-governmental organizations and international agencies;

5. Requests the United Nations High Commissioner for Human Rights, in pursuance of her mandate, to undertake initiatives to promote women's right to adequate housing and to land and property;

6. Encourages the High Commissioner/Centre for Human Rights to include fully in all the projects undertaken by the technical cooperation and advisory services programme specific activities related to the promotion and protection of women's right to adequate housing and to land and property;

7. Also encourages the High Commissioner/Centre for Human Rights to include fully in all its field operations specific activities relating to the promotion and protection of women's right to adequate housing and to land and property;

8. Recommends that the Special Rapporteur of the Commission on Human Rights on violence against women include in her next report an in-depth analysis of the relationship between violence against women and violations of the right to adequate housing and to land and property, including forced evictions;

9. Also recommends that all relevant special rapporteurs and the special representative of the Secretary-General on internally displaced persons take into account in the preparation of their reports the question of the housing, land and property rights of women;

10. Invites the Commission on the Status of Women to consider the right to adequate housing and to land and property in its continued research on the impact of violations of economic, social and cultural rights on women;

11. Invites the Committee on the Elimination of Discrimination against Women to pay special attention to the issue of the housing, land and property rights of women when examining States parties' reports and to explore the possibility of adopting a general recommendation on women and housing rights as this relates, inter alia, to the provisions of article 14 of the Convention on the Elimination of All forms of Discrimination Against Women, with a view to clarifying the obligations of States parties to the Convention in this respect;

12. Invites the Committee on Economic, Social and Cultural Rights to consider devoting a day of general discussion to the impact of structural discrimination, poverty and inadequate housing and living conditions on the economic, social and cultural rights of women, with a view to adopting a general comment on article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights;

13. Strongly suggests that the joint programme of the Centre for Human Rights and the United Nations Centre for Human Settlements (Habitat) focus directly on women and the right to adequate housing and to land and property;

14. Requests Governments, the organizations and bodies of the United Nations and the specialized agencies, actively to support local, national and international initiatives, including the development of human rights indicators, aimed at assessing and improving the housing and living conditions of women throughout the world, in full consultation with and with the full participation of women themselves, their representatives and community-based non-governmental organizations and other relevant groups;

15. Invites the Food and Agriculture Organization of the United Nations, in its implementation of the Plan of Action adopted by the World Summit on Food, to focus on women's poverty in relation to their rights to land and property;

16. Invites the International Labour Organization to consider women's housing, land and property rights in its monitoring and development of recommendation No. 115 concerning Workers' Housing, 1961 and the Home Work Convention (No. 177), 1996;

17. Urges the international financial institutions, in particular the World Bank and the International Monetary Fund, to take fully into account the human rights implications for women of their policies, in particular structural adjustment programmes and the funding of large-scale development projects that often lead to forced evictions;

18. Decides to review the question of women and the right to adequate housing at its fiftieth session, under the relevant agenda item.

35th meeting
27 August 1997

[Adopted without a vote. See chap. VI.]

1997/20. Question of the impunity of perpetrators of violations of human rights (economic, social and cultural rights)

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1992/23 of 27 August 1992 and 1993/37 of 26 August 1993 concerning the implementation of a study on the impunity of perpetrators of violations of human rights,

Recalling also its resolution 1994/34 of 26 August 1994 in which it entrusted Mr. Guissé with the task of reporting to it on impunity in respect of violations of economic, social and cultural rights, together with its resolutions 1995/34 of 24 August 1995 and 1996/24 of 29 August 1996,

Considering that the Special Rapporteur submitted to it in 1995 a first interim report on the question of the impunity of perpetrators of human rights violations (economic, social and cultural rights) (E/CN.4/Sub.2/1995/19), followed by a second interim report (E/CN.4/Sub.2/1996/15) in 1996, and the final report (E/CN.4/Sub.2/1997/8) in 1997,

1. Requests the Secretary-General to transmit the final report of the Special Rapporteur to the Commission on Human Rights for consideration;

2. Recommends to the Commission on Human Rights that it consider the possibility of appointing a special rapporteur of the Commission on the impunity of perpetrators of violations of economic, social and cultural rights.

35th meeting
27 August 1997

[Adopted without a vote. See chap. VI.]

1997/21. United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolution 46/122 of 17 December 1991 by which it established the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery to assist representatives of non-governmental organizations to participate in the deliberations of the Working Group on Contemporary Forms of Slavery by providing them with financial assistance and to extend through

established channels of assistance, humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of contemporary forms of slavery,

Recalling also the close relationship between the mandate and activities of the Working Group and those of the Board of Trustees of the Trust Fund, and the necessary cooperation between them,

Welcoming the appointment by the Secretary-General of the members of the Board of Trustees of the Fund,

Welcoming also the holding of the third session of the Board of Trustees from 17 to 19 March 1997, at which the Board recommended that the Secretary-General invite six representatives of non-governmental organizations to attend the twenty-second session of the Working Group and that he finance three projects,

Welcoming further the decision of the Secretary-General to approve these recommendations,

Concerned at the insufficiency of contributions to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, which prevents it from effectively fulfilling its mandate,

1. Expresses its appreciation for the participation of the representatives of non-governmental organizations financed by the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and for their valuable contribution to the work of the Working Group on Contemporary Forms of Slavery.

2. Encourages the activities of those non-governmental organizations financed by the Trust Fund;

3. Thanks the Chairman and the members of the Board of Trustees of the Fund who attended the session of the Working Group for their constructive participation in its work;

4. Expresses its support for the work of the members of the Board of Trustees, in particular their fund-raising activities;

5. Urges all Governments, non-governmental organizations and individuals to respond favourably to requests for contributions to the Trust Fund in order to enable the Fund to fulfil its mandate effectively;

6. Invites the members of the Board of Trustees of the Trust Fund in a position to do so to participate at the twenty-third session of the Working Group;

7. Decides to continue to examine the situation and the activities of the Trust Fund at its fiftieth session.

35th meeting
27 August 1997
[Adopted without a vote. See chap. VIII.]

1997/22. Report of the Working Group on Contemporary Forms of Slavery

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of the report of the Working Group on Contemporary Forms of Slavery on its twenty-second session (E/CN.4/Sub.2/1997/13) and in particular the recommendations contained in chapter VI,

Deeply concerned at the information it contains relating to child and bonded labour, sexual exploitation, in particular of children, the traffic in persons, migrant and domestic workers and sexual slavery during wartime,

Noting that the status of ratification of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 is still unsatisfactory,

Considering the necessity of promoting the implementation of international norms and standards on trafficking in persons and exploitation of the prostitution of others, and of strengthening the mechanism of implementation of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,

1. Expresses its appreciation to the Working Group on Contemporary Forms of Slavery for its valuable work and in particular for its continued broad approach and flexible methods of work;

2. Recommends once again that the General Assembly consider proclaiming 2 December as the day for the abolition of slavery in all its forms;

I. PREVENTION OF TRAFFIC IN PERSONS AND EXPLOITATION OF THE PROSTITUTION OF OTHERS

3. Welcomes the outcome of the World Congress against Commercial Sexual Exploitation of Children, held at Stockholm from 27 to 31 August 1996;

4. Recalls the adoption by the Commission on Human Rights of the Programme of Action for the Prevention of the Traffic in Persons and the Exploitation of the Prostitution of Others (E/CN.4/Sub.2/1995/28/Add.1);

5. Requests the Secretary-General to invite all States to report periodically to the Sub-Commission on measures adopted to implement the Programme of Action and on the efficacy of such measures;

6. Recommends that Governments prohibit the advertising or publicizing of sex tourism and that they do not facilitate other commercial activities involving sexual exploitation;

7. Encourages Governments, in cooperation with the World Health Organization and the Joint United Nations Programme on HIV/AIDS, to establish specific projects for the protection of the victims of traffic in persons and of prostitution from the risk of infection with HIV and the spread of AIDS;

8. Recommends that States take urgent measures, including measures of criminal law and of cooperation with other States, designed to protect minors from exposure to or involvement in pornography and requests the Secretary-General to invite States to provide information on measures taken or already applicable;

9. Invites the Secretary-General, in cooperation with the International Telecommunication Union, to continue to examine the adverse effect on children of new technologies, such as the Internet, that are used to promote, inter alia, child pornography and sex tourism;

10. Recommends that national institutions for the prevention of prostitution be established in all States in order to assist in the rehabilitation and reintegration of victims of prostitution;

11. Welcomes the positive measures taken by the World Tourism Organization and professionals in the field of tourism to combat sex tourism, and encourages the reinforcement of such activities;

II. SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

A. Special Rapporteur on the sale of children, child prostitution and child pornography

12. Takes note of the information on these problems submitted by the Special Rapporteur in her report to the Commission on Human Rights (E/CN.4/1997/95 and Add.1-2);

13. Also takes note of the information on these problems submitted by the participants at the twenty-second session of the Working Group and requests the High Commissioner/Centre for Human Rights to transmit the information to the Special Rapporteur, along with the recommendations relating to her mandate;

14. Requests the Special Rapporteur, within the framework of her mandate, to continue to pay attention to issues relating to the traffic in children, such as organ transplantation, disappearances, the purchase and sale of children, adoption for commercial purposes or exploitation, child prostitution and child pornography;

15. Strongly encourages the Special Rapporteur to participate in the twenty-third session of the Working Group, in view of the importance of her contribution to its deliberations;

B. Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography

16. Encourages the Working Group on a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography to continue its work in elaborating a draft optional protocol, and calls upon the Working Group to outline a framework for international cooperation to bring to an end all practices relating to the sexual exploitation of children, including child sex tourism;

17. Requests the Secretary-General to invite all States to continue to inform the Working Group of measures adopted to implement the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography;

18. Encourages all Governments to consider, in the context of the Programme of Action, the creation of programmes aimed at the social rehabilitation of all victims of trafficking, prostitution and pornography, in particular children, and requests international cooperation for establishing and implementing such programmes;

C. Commercial sexual exploitation of children

19. Welcomes the dissemination of the Declaration and Agenda for Action of the World Congress against Commercial Sexual Exploitation of Children;

20. Calls upon all States to muster the political will to give priority to this issue and to initiate through national debate and an intersectoral dialogue a process which moves from deploring the issue to the urgent adoption of a national agenda for action that includes the gathering of gender-disaggregated data, indicators of progress, setting goals, a time-frame for its implementation and national monitoring mechanisms;

21. Calls for increased cooperation between and concrete action-oriented measures by States and international organizations;

D. Traffic in human organs and tissues

22. Notes the information submitted by the Secretary-General to the Commission on Human Rights in accordance with Commission resolution 1996/61 of 23 April 1996, in which the Commission requested the Secretary-General to examine, in cooperation with relevant United Nations agencies, in particular the World Health Organization and all relevant non-governmental organizations, the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes in order to enable the Commission to decide upon possible follow-up to this matter (E/CN.4/1997/78);

23. Welcomes the adoption by the Commission on Human Rights of resolution 1997/20 of 11 April 1997, in which the Commission requested the Secretary-General to continue the examination of the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes and to include an analysis of this question in an updated report to be submitted to the Commission at its fifty-fifth session, in order to enable the Commission to decide whether continued attention to this question is required;

24. Encourages the World Health Organization to continue to pay special attention to this issue, welcomes once again the recommendation of the World Health Organization Advisory Committee on Health Research to set up a task force on organ transplantation, and notes the report of its first meeting held in Annecy, France, on 10 and 11 October 1996;

III. ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR

25. Urges all States, while attempting ultimately to eliminate the phenomenon of child labour, to adopt measures and regulations to protect child labourers, to ensure that their labour is not exploited and to prohibit their labour in hazardous occupations;

26. Urges States that have not yet done so to ratify the relevant International Labour Organization conventions, in particular the Forced Labour Convention, 1930 (No. 29) and the Convention on the Minimum Age for Admission to Employment, 1973 (No. 138);

27. Calls for international cooperation in order to assist the States concerned in their struggle against bonded labour;

28. Requests the Secretary-General to invite all States to inform the Working Group of measures adopted to implement the Programme of Action for the Elimination of the Exploitation of Child Labour and to report to the Sub-Commission and the Commission at their next sessions;

IV. ERADICATION OF BONDED LABOUR

29. Takes note with satisfaction of the promulgation by certain States of laws against bonded labour, and appeals to their Governments to adopt all necessary measures to ensure the full implementation of such laws;

30. Requests the specialized agencies, in particular the international financial institutions and the development agencies of the United Nations, to ensure that the projects they support do not, in any way, use bonded labour;

31. Recommends that Governments cooperate with trade unions and employers' organizations at the national level to address the problem of bonded labour and that trade unions and employers' organizations at the local, national and international levels utilize the existing structures of the International Labour Organization dealing with violations of the relevant conventions concerning forced labour, and encourages concerned non-governmental organizations to strengthen their activities for disseminating information and advising trade unions in this regard;

V. FORCED LABOUR

32. Reaffirms once again that forced labour is a contemporary form of slavery;

33. Decides to continue to give consideration to this issue at its next session;

VI. MIGRANT WORKERS

34. Decides to give priority to the consideration of the question of domestic and migrant workers at its next sessions;

35. Also decides to continue to give particular attention to the situation of girl children domestic workers, and urges Governments to ensure that protective regulations govern their employment situation and provide for safe conditions of work;

36. Notes the difficult situation in which girl children are living and the need for them to be provided with protection with a view to their fullest human development and participation in the life of their community being ensured;

37. Urges States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

38. Also urges States to take the necessary measures to prohibit and sanction the confiscation of passports belonging to migrant workers, in particular, migrant domestic workers;

39. Strongly condemns practices of unequal treatment of migrant workers and the denial of their human dignity;

40. Welcomes Commission on Human Rights resolution 1997/15 of 3 April 1997 in which the Commission decided to establish a working group consisting of five intergovernmental experts on human rights and migrants;

41. Also welcomes the conclusions and recommendations of the United Nations seminar on immigration, racism and racial discrimination held in Geneva from 5 to 9 May 1997, and requests the Secretary-General to disseminate them widely;

42. Recommends that non-governmental organizations give attention to the grave problems affecting migrant workers and provide the Working Group with information in this regard;

VII. ILLEGAL AND PSEUDO-LEGAL ADOPTIONS AIMING AT THE EXPLOITATION OF CHILDREN

43. Takes note of the information received concerning cases of children adopted for commercial purposes and any other form of traffic;

44. Urges States to take adequate steps to regulate and monitor intercountry adoptions better, in particular by ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993;

45. Decides to continue to give consideration to this issue at its next session;

VIII. ELIMINATION OF VIOLENCE AGAINST WOMEN

A. Violence against women

46. Decides to give more priority to exploring preventive measures for the elimination of violence against women, in particular in situations of armed conflict;

47. Welcomes the work of the Special Rapporteur on violence against women and notes her report (E/CN.4/1997/47 and Add.1-4);

48. Invites Governments, intergovernmental organizations and non-governmental organizations to disseminate widely the report of the Special Rapporteur and to implement the recommendations contained therein;

49. Decides to pay special attention to the next report of the Special Rapporteur, which will focus on violence against women during armed conflict;

50. Decides to transmit the information received concerning the sexual exploitation of women and other forms of forced labour during wartime to the Special Rapporteur on violence against women and the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict;

51. Requests the Secretary-General to transmit the final report to be prepared by the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to the Working Group at its next session;

52. Invites the Special Rapporteur on violence against women and the Special Rapporteur on the situation of systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to participate in the twenty-third session of the Working Group;

B. Sexual slavery during wartime, in particular during the Second World War

53. Takes note of the information provided by the Government of Japan, as well as by other parties concerned, with regard to actions in relation to the issue of women sex slaves during the Second World War, recognizing the positive steps made so far towards the solution to this issue;

54. Encourages further efforts towards a constructive dialogue;

55. Invites the Government of Japan to continue to cooperate with the United Nations and the specialized agencies in this matter;

56. Decides to continue to consider this issue at its next session;

IX. MISCELLANEOUS

57. Decides to biennialize the consideration of the issues of incest and early marriage, including the consideration of ways to combat incest and sexual abuse of children inside the family and the urgent need for adequate help to be offered to victims of such practices;

58. Urges Governments to make confidential facilities available for children to make disclosure of the situation and to obtain advice and assistance;

59. Urges Member States to take adequate steps to punish severely the perpetrators of this most heinous offence;

60. Requests the Secretary-General to seek the views and suggestions of Member States and of intergovernmental and non-governmental organizations on proposals for the future action of the Working Group with a view to its considering their replies at its forthcoming sessions;

61. Appeals to all Governments to send representatives to the meetings of the Working Group;

62. Encourages youth organizations and young persons from various non-governmental organizations to participate in the meetings of the Working Group;

63. Recommends that the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, when examining the periodic reports of States parties, give particular attention to the implementation of, respectively, articles 8 and 24 of the International Covenant on Civil and Political Rights, articles 10, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights, article 6 of the Convention on the Elimination of All Forms of Discrimination against Women and articles 32, 34 and 36 of the Convention on the Rights of the Child, and to include in their guidelines an item concerning contemporary forms of slavery;

64. Recommends that the Committee of Experts on The Application of Conventions and Recommendations of the International Labour Organization and

the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organization give particular attention in their work to the implementation of provisions and standards designed to ensure protection of children and other persons exposed to contemporary forms of slavery, such as the sale of children, child prostitution and child pornography, the exploitation of child labour, bonded labour and the traffic in persons;

65. Requests the Secretary-General to transmit to the committees mentioned above, the special rapporteurs concerned and the Working Group on Enforced or Involuntary Disappearances the recommendations of relevance to them and the report of the Working Group;

66. Welcomes again the adoption by the Commission on Human Rights of resolution 1996/61 of 23 April 1996, in which the Commission requested the Secretary-General to give effect to his decision to reassign to the Working Group a Professional staff member of the Centre for Human Rights, as was the case in the past, to work on a permanent basis to ensure continuity and close coordination within and outside the Centre for Human Rights on issues relating to contemporary forms of slavery;

67. Again requests the Secretary-General to designate the High Commissioner/Centre for Human Rights as the focal point for the coordination of activities and the dissemination of information within the United Nations system for the suppression of contemporary forms of slavery;

68. Notes that the Economic and Social Council, in its resolution 1993/48 of 28 July 1993, approved the endorsement by the Commission on Human Rights of the recommendation made by the Sub-Commission in its resolution 1992/2 of 14 August 1992 that the arrangements regarding the organization of the sessions of the Working Group on Contemporary Forms of Slavery, as contained in Commission decision 1992/115 of 3 March 1992, be repeated in subsequent years;

69. Decides, in arranging its agenda, to make provision for adequate discussion of the report of the Working Group near the commencement of each session, thereby strengthening its involvement in the activities of the Working Group.

35th meeting
27 August 1997
[Adopted without a vote. See chap. VIII.]

1997/23. Prevention of discrimination against and protection of minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights resolution 1995/24 of 3 March 1995 on the rights of persons belonging to national or ethnic, religious and linguistic minorities, in which the Commission, inter alia, decided to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish, initially for a three-year period, an inter-sessional working group consisting of five of its members, to meet each year for five working days in order to promote the rights of persons belonging to minorities,

Noting Commission resolution 1997/16 of 3 April 1997, in which it commended the role of the Working Group on Minorities as an important forum for the promotion of the rights of persons belonging to minorities and expressed its expectation that the Working Group would further implement its mandate as set out in Commission resolution 1995/24, with the involvement of a wide range of participants,

Having considered the comprehensive report of the Working Group on Minorities on its third session (E/CN.4/Sub.2/1997/18) and in particular the conclusions and recommendations contained in paragraphs 105 to 125 thereof,

Disturbed at the widespread occurrence of violent conflicts in many parts of the world where ethnic or religious hostility is engendered and exploited by one or more of the parties to the conflict,

Reiterating the need for States, minorities and majorities to search for peaceful and constructive solutions to problems affecting minorities,

Emphasizing the need for system-wide cooperation within the United Nations to facilitate peaceful solutions to situations involving minorities,

Underlining the need for close cooperation between the Sub-Commission and the Commission on Human Rights in this field,

1. Welcomes the substantive information submitted to the sessions of the Working Group on Minorities and the dialogue engaged between minorities and Governments, and the report of the Working Group on its third session (E/CN.4/Sub.2/1997/18);

2. Decides to transmit the report of the Working Group on Minorities on its third session together with the working papers prepared by members of the Working Group to the Commission on Human Rights for consideration;

3. Recommends that the Commission on Human Rights request the Economic and Social Council to authorize the extension of the mandate of the Working Group with a view to its holding one session annually;

4. Invites the Working Group to increase its cooperation with the United Nations High Commissioner for Human Rights;

5. Appeals to all Governments, intergovernmental organizations, United Nations bodies, specialized agencies, non-governmental organizations and scholars to continue to participate actively in the work of the Working Group;

6. Invites the Working Group to elaborate and submit to the Sub-Commission guidelines concerning the content and scope of the principles contained in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including concrete recommendations for their implementation;

7. Welcomes the seminar on multicultural and intercultural education held on 23 and 24 May 1997 and the recommendations thereof contained in document E/CN.4/Sub.2/AC.5/1997/WP.5, and invites the Working Group to pursue its efforts to organize further seminars, without financial implications, in accordance with the recommendations contained in its reports;

8. Recommends that the Working Group continue the consideration of the issue of citizenship and nationality within the context of minority rights;

9. Requests the Commission on Human Rights to invite States and intergovernmental and non-governmental organizations to provide their comments on The Hague Recommendations regarding the Education Rights of National Minorities (E/CN.4/Sub.2/AC.5/1997/WP.3, annex) in accordance with paragraph 111 of document E/CN.4/Sub.2/1997/18;

10. Also requests the Commission on Human Rights to invite States and intergovernmental and non-governmental organizations to provide information on good practices organized according to the principles contained in the Declaration, in accordance with paragraph 109 of document E/CN.4/Sub.2/1997/18;

11. Recommends that minority rights issues and programmes for intercultural education be made a core component of the action plans for the United Nations Decade for Human Rights Education;

12. Recommends that the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child, when considering States parties' reports, give particular attention to the implementation of, respectively, article 27 of the International Covenant on Civil and Political Rights, article 15 of the International Covenant on Economic, Social and Cultural Rights, article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 30 of the Convention on the Rights of the Child, and include in their guidelines an item concerning minorities;

13. Also recommends that the treaty bodies, special rapporteurs, special representatives and the relevant working groups continue to pay due regard, within their mandates, to the principles contained in the Declaration;

14. Requests the competent United Nations organs and bodies and intergovernmental and non-governmental organizations to intensify their efforts to disseminate information on the Declaration and to continue to submit information on the application thereof to the Working Group on Minorities in compliance with article 9 of the Declaration;

15. Recommends that the Office of the United Nations High Commissioner for Human Rights be strengthened to enable it to provide adequate services to the Working Group and to undertake relevant studies, evaluation and action;

16. Recommends the following draft decision to the Commission on Human Rights for adoption:

> "The Commission on Human Rights, taking note of resolution 1997/23, of 27 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to request the Economic and Social Council to authorize the extension of the mandate of the Working Group on Minorities with a view to its holding one of five working days session annually."

35th meeting
27 August 1997
[Adopted without a vote. See chap. X.]

1997/24. Situation of street children and minor detainees

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting with satisfaction resolution 1997/78 VIII of the Commission on Human Rights concerning the plight of street children,

Reminding all the States parties to the Convention on the Rights of the Child of their obligations with regard to effective implementation of all its provisions,

Seriously concerned at reports from reliable sources indicating that in some countries street children and, in particular, minor detainees are suffering serious violations of human rights,

Deploring the fact that the governments concerned remain silent about the conditions of internment of young detainees, as regards the lack of infrastructure, the untrained personnel and the intolerable behaviour of this personnel towards these detainees,

Noting with concern the absence in the countries concerned of specific legislation to govern offences committed by minor children, the absence of preventive and educational measures for their reintegration into society which would enable minor detainees to become rehabilitated and no longer marginalized, as well as the very limited number of children's magistrates capable of understanding the problems of delinquent children and seeing that they are cared for,

1. Recommends to the Commission on Human Rights that it invite all States parties to the Convention on the Rights of the Child which have not already done so to incorporate all the provisions of the Convention in their domestic legislation, so as to ensure that the rights of the child are not subject to any infringement or violation;

2. Requests the Commission on Human Rights, having regard to the gravity of the violations suffered by street children, who are often manipulated by criminal groups, to consider the possibility of appointing a special rapporteur on the human rights situation of street children.

35th meeting
27 August 1997

[Adopted without a vote. See chap. XI.]

1997/25. Juvenile justice

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Mindful of its decision at its present session to include the question of juvenile justice as sub-item (d) of item 9 dealing with the administration of justice and human rights,

Recalling that Ms. Lucy Gwanmesia, as a member of the sessional working group on the administration of justice and the question of compensation, was requested at the 1996 session of the working group to prepare a working paper on juvenile justice,

Recalling that article 37 of the Convention on the Rights of the Child provides that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment and that neither capital punishment nor life imprisonment shall be imposed on children, and that no child shall be detained or imprisoned except in conformity with the law,

Reaffirming section I, paragraph 21, of the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, in which the Conference, welcoming the early ratification of the Convention on the Rights of the Child by a large number of States, urged universal ratification of the Convention by 1995 and its effective implementation by States parties through the adoption of all the necessary legislative, administrative and other measures,

Mindful of the international human rights instruments pertaining to the question of juvenile justice, in particular the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"),

1. Notes with interest the discussions at the 1996 sessional working group on the administration of justice concerning the question of juvenile justice (see E/CN.4/Sub.2/1997/21, chap. V) and mindful of the importance attached to this question expressed during the discussion by the Sub-Commission of the report of the working group;

2. Regrets that in contravention of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") many States continue to detain children with adult prisoners;

3. Also regrets that in many States the system of administration of justice fails to take account of the special psychological and physical needs of children;

4. Calls upon States to provide for the establishment of juvenile courts in their respective systems of administration of justice;

5. Notes with regret that the Committee on the Rights of the Child has so far been unable to adopt any general comments on the Convention on the Rights of the Child;

6. Decides to request Ms. Lucy Gwanmesia to prepare, without financial implications, a detailed working paper on juvenile justice to be submitted to the Sub-Commission at its fiftieth session;

7. Invites the relevant organizations and bodies of the United Nations system, in particular the United Nations Children's Fund and the Committee on the Rights of the Child, to cooperate with Ms. Gwanmesia in the preparation of her working paper.

35th meeting
27 August 1997

[Adopted without a vote. See chap. XI.]

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Sub-Commission on Prevention of
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of Minorities
Forty-ninth session
Agenda item 13 (c)

CONCLUDING ITEMS

ADOPTION OF THE REPORT ON THE FORTY-NINTH SESSION

Draft report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-ninth session

Rapporteur: Mr. Marc Bossuyt

CONTENTS*

Chapter		Paragraphs	Page
II.	Draft resolutions and decisions adopted by the Sub-Commission at its forty-ninth session . . .		
	A. Resolutions		
	1997/26. Privatization of prisons		
	1997/27. Question of human rights and states of emergency		

* E/CN.4/Sub.2/1997/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commisson on Human Rights, will be contained in documents E/CN.4/Sub.2/1997/L.11 and Addenda.

GE.97-13938 (E)

CONTENTS (continued)

Chapter			Paragraphs	Page
II.	A.	Resolutions (continued)		
		1997/28. Question of the impunity of perpetrators of violations of human rights (civil and political rights)		
		1997/29. Freedom of movement and population transfers		
		1997/30. Study concerning the right to freedom of movement		
		1997/31. The right to return		
		1997/32. Role of the Sub-Commission in the promotion, full realization and protection of the rights of children and youth		
		1997/33. Injurious effects of anti-personnel landmines		
		1997/34. Respect for humanitarian and human rights law provisions in United Nations peacekeeping operations		

1997/26. Privatization of prisons

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its decision 1989/110 of 1 September 1989 and 1992/107 of 27 August 1992,

Recalling also that in its decision 1993/109 of 25 August 1993, the Sub-Commission requested the Commission on Human Rights to authorize it to appoint at its forty-sixth session, one of its members to undertake a special study on this issue,

Mindful of Commission on Human Rights decision 1994/103 of 4 March 1993, in which the Sub-Commission was requested to reconsider its decisions to recommend a number of new studies, including the one relating to the privatization of prisons, and to submit its recommendations to the Commission at its fifty-first session,

Considering that following the guidance given by the Commission and in order to monitor developments on this issue, the Sub-Commission refrained from submitting new proposals to the Commission on this matter at its forty-sixth, forty-seventh and forty-eighth sessions,

Bearing in mind the working paper submitted by Mr. Miguel Alfonso Martínez in which he made a proposal as to the best possible way for the Sub-Commission to study the issue of privatization of prisons (E/CN.4/Sub.2/1991/56) and the outline prepared by Ms. Claire Palley on the possible utility, scope and structure of a special study on this matter (E/CN.4/Sub.2/1993/21),

Taking into account that in recent years the practice of privatizing penal facilities has been adopted by an increasing number of States and that a wide variety of issues relating to the advantages and disadvantages of the privatization of prisons have been raised and discussed by many sources,

Taking into account also the ample discussion held on this matter during this year's session of its working group on the administration of justice (see E/CN.4/Sub.2/1997/21, paras. 39-45) and the recommendation submitted thereon to the Sub-Commission by the working group (E/CN.4/Sub.2/1997/21, para. 46).

1. Decides to request its parent bodies to authorize it to appoint Mr. Ali Khan as special rapporteur in order to undertake an in-depth study on all issues relating to the privatization of prisons, including the obligation

to respect and implement the legislation in force in the country concerned and the possible civil responsibility of enterprises managing private prisons and their employees, a study which should be completed in time for consideration by the Sub-Commission at its fifty-second session;

2. Recommends the following decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, recalling its decision 1994/103 of 4 March 1994 and Sub-Commission on Prevention of Discrimination and Protection of Minorities decision 1993/109 of 25 August 1993, endorses the recommendation contained in Sub-Commission resolution 1997/26 of 28 August 1997 and recommends that the Economic and Social Council authorize the Sub-Commission to appoint Mr. Ali Khan as special rapporteur in order to undertake an in-depth study on all issues relating to the privatization of prisons, including the obligation to respect and implement the legislation in force in the country concerned and the possible civil responsibility of enterprises managing private prisons and their employees, to be completed in time for consideration by the Sub-Commission at its fifty-second session."

36th meeting
28 August 1997
[Adopted without a vote. See chap. XI.]

1997/27. Question of human rights and states of emergency

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the final report of Mr. Leandro Despouy on "Protection of human rights during states of emergency" and the tenth annual list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency (E/CN.4/Sub.2/1997/19 and Add.1),

1. Thanks the Special Rapporteur for the tenth annual list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency (E/CN.4/Sub.2/1997/19/Add.1) and for his final report on the protection of human rights during states of emergency (E/CN.4/Sub.2/1997/19);

2. Decides to request Mr. Ioan Maxim to serve as the new Special Rapporteur on the question of human rights and states of emergency and to submit in the eleventh annual report an updated list of States which have proclaimed or extended a state of emergency, and a list - to be submitted once

every five years - of those States which have terminated a state of emergency, together with further recommendations on the protection of human rights during states of emergency;

3. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/27 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, approves the decision of the Sub-Commission to request Mr. Ioan Maxim to serve as the new Special Rapporteur on the question of human rights and states of emergency and to submit in the eleventh annual report an updated list of States which have proclaimed or extended a state of emergency, and a list - to be submitted once every five years - of those States which have terminated a state of emergency, together with further recommendations on the protection of human rights during states of emergency."

36th meeting
28 August 1997
[Adopted without a vote. See chap. XI.]

1997/28. Question of the impunity of perpetrators of violations of human rights (civil and political rights)

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, other relevant human rights instruments and the Geneva Conventions of 12 August 1949,

Recalling the interdependence and indivisibility of civil and political rights and economic, social and cultural rights,

Convinced that the increasingly widespread practice worldwide of ensuring impunity for perpetrators of violations of human rights is a fundamental obstacle to the observance of human rights,

Recalling its resolution 1992/23 of 27 August 1992, in which it was decided that a study should be carried out on the impunity of perpetrators of

violations of human rights, and Commission on Human Rights resolution 1993/43 of 5 March 1993, in which the Commission endorsed the decision of the Sub-Commission,

Recalling also its resolution 1993/37 of 26 August 1993 and its resolution 1994/34 of 26 August 1994, in which it decided, in order to facilitate the treatment of the question, to entrust Mr. Louis Joinet with the completion of the first aspect of the study, concerning civil and political rights, as well as its resolution 1995/35 of 24 August 1995 and its decision 1996/119 of 29 August 1996,

Bearing in mind section II, paragraph 91 of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights supported the efforts of the Commission and the Sub-Commission to intensify opposition to the practice of ensuring impunity for perpetrators of violations of human rights,

1. Welcomes with satisfaction the final report of the Special Rapporteur on the question of the impunity of perpetrators of violations of human rights (civil and political rights), Mr. Louis Joinet (E/CN.4/Sub.2/1997/20) and in particular the set of principles for the protection and promotion of human rights through action to combat impunity contained in annex II thereto;

2. Thanks the Special Rapporteur for having undertaken extensive consultations during the forty-ninth session of the Sub-Commission in order to revise the set of principles in accordance with the views expressed by the Sub-Commission at its forty-ninth session;

3. Decides to transmit the revised set of principles for the protection and promotion of human rights through action to combat impunity to the Commission on Human Rights at its fifty-fourth session, with a view to its possible transmission to the General Assembly, through the Economic and Social Council.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XI.]

1997/29. Freedom of movement and population transfers

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the right of everyone lawfully within the territory of a State to liberty of movement and freedom to choose his or her residence and the prohibition of arbitrary deprivation of the right to enter one's own country as set out in article 12 of the International Covenant on Civil and Political Rights and article 13 of the Universal Declaration of Human Rights,

Recognizing that practices of forcible exile, mass expulsion and deportation, population transfer, forcible population exchange, unlawful evacuation, eviction and forcible relocation, "ethnic cleansing" and other forms of forcible displacement of populations within a country or across borders not only deprive the affected populations of their rights to freedom of movement but also threaten the peace and security of States,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights, and article 14 of the Universal Declaration of Human Rights, which reaffirm that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to one's own country,

Recalling also its resolutions 1995/13 of 18 August 1995 and 1996/9 of 23 August 1996, in which it decided to continue its consideration of the question of population displacement and to keep under constant review any developments in the right to freedom of movement, including the right to seek asylum, the right to remain and the right to return,

Recalling further that in its resolution 1996/9 it requested the Secretary-General to convene an expert group seminar on population transfer,

Expressing its appreciation of the work and of the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh (E/CN.4/Sub.2/1997/23), as well as the conclusions and recommendations of the expert group seminar on the human rights dimensions of population transfer, held in Geneva from 17 to 21 February 1997, contained therein,

Noting that policies and practices of forcible displacement continue to be the major causes of refugee flows and the displacement of persons within States,

Concerned that the growing number of refugees and internally displaced persons worldwide poses a serious threat to peace and security and that restrictive policies of many States may lead to difficulties for people leaving their country in order to seek asylum, as well as to the detention of refugees and asylum seekers,

Noting the need to further rationalize and harmonize the various international standards in this complex and evolving area,

Convinced that a comprehensive strategy needs to be devised to implement the standards in tangible programmes of action within both a regional and national context,

1. Welcomes the final report of the Special Rapporteur on the human rights and population transfer (E/CN.4/Sub.2/1997/23) and the draft declaration on population transfer and the implantation of settlers annexed thereto, as a first step towards defining the standards and legal norms pertaining to population transfer and the freedom of movement;

2. Welcomes the working paper on the right of freedom of movement and related issues prepared by Mr. Volodmyr Boutkevitch (E/CN.4/Sub.2/1997/22) as a contribution towards a comprehensive approach to combating policies and practices of forcible displacement;

3. Affirms the right of persons to be protected from forcible displacement and to remain in peace in their own homes, on their own lands and in their own countries;

4. Also affirms the right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their countries of origin and, within them, to their places of origin or choice, and urges Governments to assist in and facilitate such return;

5. Urges Governments and other entities involved to do everything possible to stop and prevent all practices of forced displacement, population transfer and "ethnic cleansing" in violation of international law;

6. Also urges all States to respect the principle of non-refoulement and to safeguard and give effect to the right of everyone to seek and to enjoy in other countries asylum from persecution;

7. Strongly encourages all Governments and other entities, including intergovernmental and non-governmental organizations, to intensify their cooperation and assistance to implement the relevant international standards in order to address the serious problems resulting from forcible displacement, and the root causes of such displacement;

8. Decides, in its further work on the right to freedom of movement, including the right to remain, the right to leave and seek asylum and the right to return, to examine the legal standards applicable to different types of forced displacement and any lacunae between those standards, in time for submission to the Sub-Commission at its fifty-first session;

9. Also decides to convene a further expert seminar, in close cooperation with relevant intergovernmental and non-governmental organizations and without financial implications, to assist in and to make practical recommendations for the further work of the Sub-Commission on the right to freedom of movement;

10. Further decides to recommend to the Commission on Human Rights that the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh, be published and widely disseminated;

11. Recommends to the Commission on Human Rights the following draft decision for adoption:

> "The Commission on Human Rights approves resolution 1997/29 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and recommends to the Economic and Social Council that the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh (E/CN.4/Sub.2/1997/23), be published and widely disseminated."

16th meeting
28 August 1997
[Adopted without a vote. See chap. XII.]

1997/30. Study concerning the right to freedom of movement

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country (United Nations publication, Sales No. E.64.XIV.2), submitted to the

Sub-Commission at its fifteenth session in 1963 by the Special Rapporteur, Mr. José D. Ingles (Philippines), and the draft principles respecting this right adopted by the Sub-Commission at the same session,

Recalling also the study concerning an analysis of the current trends and developments regarding the right to leave any country including one's own, and to return to one's own country (E/CN.4/1988/35 and Add.1 and Add.1/Corr.1), submitted to the Sub-Commission at its fortieth session by the Special Rapporteur, Mr. C.L.C. Mubanga-Chipoya (Zambia),

Reaffirming the right of everyone lawfully within the territory of a State to liberty of movement and freedom to choose his residence, and the prohibition of arbitrary deprivation of the right to leave any country, including one's own, and to return to one's country, as set out in article 12 of the International Covenant on Civil and Political Rights and article 13 of the Universal Declaration of Human Rights,

Taking note of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23), which reaffirms that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to his own country,

Recalling its decision 1996/109 of 23 August 1996, in which the Sub-Commission, mindful of the links between the protection of minorities, prevention of discrimination, population movements and displacements, freedom of movement, the right to leave and to return to one's own country and the right to seek and enjoy asylum, decided, without a vote, to entrust Mr. Volodymyr Boutkevitch with the task of preparing, without financial implications, a working paper on the right to freedom of movement and related issues,

1. Welcomes the working paper on the right to freedom of movement and related issues prepared by Mr. Volodymyr Boutkevitch (E/CN.4/Sub.2/1997/22);

2. Decides, since this subject requires careful and comprehensive inquiry, to recommend to the Commission on Human Rights and the Economic and Social Council the appointment of Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, to have the possibility to enter other countries without discrimination, and to seek and enjoy asylum,

and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights;

3. Requests the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-first session;

4. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/30 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the decision of the Sub-Commission to appoint Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, to have the possibility to enter other countries, without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights. The Commission also decides to invite Governments, competent bodies of the United Nations, the specialized agencies, regional intergovernmental organizations and non-governmental organizations to provide or continue to provide information on this question, and recommends the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council, taking note of Commission on Human Rights decision 1998/... of ..... 1998, approves the endorsement by the Commission on Human Rights of the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, and to have the possibility to enter other countries without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights, and to submit a preliminary report

to the Sub-Commission at its fifty-first session, and requests the Secretary-General to provide all assistance necessary to enable him to complete his study.'"

36th meeting
28 August 1997
[Adopted without a vote. See chap. XII.]

1997/31. The right to return

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the right of every person to return to his or her own country, as enshrined in article 13.2 of the Universal Declaration of Human Rights and article 5 (d) (ii) of the International Convention on the Elimination of All Forms of Racial Discrimination, and the prohibition of arbitrary deprivation of the right to enter one's own country contained in article 12.4 of the International Covenant on Civil and Political Rights,

Recalling its resolution 1996/9 of 23 August 1996 in which it affirmed the right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their country of origin and/or within it to their place of origin or choice, and in which it decided to continue to study the question of the freedom of movement, including the right to return,

Recognizing the fundamental significance of the observance and promotion of the right to return voluntarily to one's country or place of origin as a principal means of resolving the problems and suffering of refugees and internally displaced persons,

Conscious that the arbitrary deprivation of nationality, prohibited by article 15.2 of the Universal Declaration of Human Rights, constitutes a violation of a fundamental and inalienable human right and an impediment to the right to return to one's country,

Recalling the Convention of the Reduction of Statelessness,

Aware of Commission on Human Rights resolution 1997/36 of 11 April 1997 entitled "Human rights and arbitrary deprivation of nationality", in which the Commission reaffirmed the importance of the right to nationality of every human person as an inalienable human right, recognized that arbitrary deprivation of nationality on racial, national, ethnic or religious grounds is a violation of human rights and fundamental freedoms, and called upon all States to refrain from taking measures and from enacting legislation that

discriminates against persons or groups of persons on grounds of race, colour or national or ethnic origin by nullifying or impairing the exercise, on an equal footing, of their right to nationality, and to repeal such legislation if it already exists,

Concerned that the plight of many refugees in certain parts of the world may represent a serious denial of their right to return and of their right to a nationality, and is likely to result in a serious increase in the phenomenon of statelessness,

1. Reaffirms the fundamental right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their country of origin and/or within it to their place of origin or choice;

2. Emphasizes the crucial importance of the right to return voluntarily to one's country or place of origin as a principal means of long-term resolution of the plight of refugees and internally displaced persons;

3. Reaffirms the fundamental and inalienable nature of the right of every human person to a nationality;

4. Emphasizes its opposition to all instances of arbitrary deprivation of nationality, especially those based on racial, national, ethnic or religious grounds, as a violation of human rights and fundamental freedoms and an impediment to the right to return to one's country;

5. Urges all States to respect and promote the right to return and the right to a nationality;

6. Particularly urges Governments of host States and Governments of countries from which refugees originate actively to negotiate with each other and, where negotiations have not yet been successful, to use the good offices of the Secretary-General or of the United Nations High Commissioner for Human Rights, or neutral third party mediation, and to include representatives of the refugees and of the Office of the United Nations High Commissioner for Refugees, in a genuine and concerted effort to realize the primary purpose of such negotiations, which is to make possible the voluntary repatriation of the refugees to their country of origin without further unnecessary delay, using where necessary the mechanism of an internationally monitored verification process to determine, in accordance with international legal principles, which of the refugee population have the right to return;

7. Requests the United Nations High Commissioner for Refugees to take all necessary steps, in line with the Convention on the Reduction of Statelessness, to ensure that refugees do not become stateless;

8. Calls upon Governments to revise their citizenship laws, with the technical assistance of the Centre for Human Rights and with the advice of the Office of the United Nations High Commissioner for Refugees so that these laws are brought into accord with international human rights law and with the Convention on the Reduction of Statelessness;

9. Decides to keep this matter under consideration at its fiftieth session.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XII.]

1997/32. Role of the Sub-Commission in the promotion, full realization and protection of the rights of children and youth

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolutions 51/77 on the rights of the child and 51/76 on the girl child and Commission on Human Rights resolutions 1996/85 and 1997/78 on the rights of the child,

Reaffirming that in accordance with the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, and the Beijing Declaration and Platform for Action, adopted by the Fourth World Conference on Women, national and international mechanisms and programmes should be strengthened for the respect of all rights of all children,

Encouraged by the widespread commitment and political will shown by the large number of States that have become parties to the Convention on the Rights of the Child,

Profoundly concerned, nevertheless, at both the lack of realization and continued violations of the rights of children and youth in many parts of the world, due, inter alia, to lack of resources and inadequate implementation of the instruments mentioned above and other relevant national and international standards,

Reaffirming that all States have a duty to fulfil the obligations they have undertaken under the various international instruments to which they are

parties or have accepted and emphasizing in this regard the importance of the full implementation by States parties of the provisions of the Convention on the Rights of the Child,

Aware that at both the national and the international level the norms relating to the promotion and protection of the human rights of children and youth are adopted, implemented and monitored by adults and that violations of those rights are also mainly committed by adults, facts which highlight the importance of education aimed at making adults more aware of the mentality, needs and predicaments of children and youth in a given society,

Having considered the report of the Working Group on Contemporary Forms of Slavery on its twenty-second session (E/CN.4/Sub.2/1997/13),

Mindful of the general and other recommendations included in the Working Group's report, in particular those relating to the sexual exploitation of children, the protection of minors from exposure to or involvement in pornography, illegal and pseudo-illegal adoptions aimed at the exploitation of children, allegations of removal of organs from children for the purpose of commercial transplants and non-therapeutical research, the exploitation of child labour, the sale of children, child abuse and the exploitation of children,

Convinced that the Sub-Commission can and must play a positive role in the promotion and protection of the rights of children and youth,

Aware that owing to the large number of United Nations treaty and non-treaty bodies concerned with the promotion and protection of the human rights of children, the role to be played by the Sub-Commission in this field should not duplicate the action and terms of reference of those bodies,

1. Expresses its deep appreciation to the Working Group on Contemporary Forms of Slavery, to its Chairperson-Rapporteur, Ms. Halima Embarek Warzazi, and to its other members for the work relating to the rights of children and youth carried out at its twenty-second session;

2. Expresses its deep conviction that the Sub-Commission can best play a constructive role in the promotion, full realization and protection of the rights of children and youth by drawing upon the expertise of the various United Nations organs, bodies and legal instruments, as well as of the intergovernmental and non-governmental organizations directly or indirectly involved in this sphere, in order to contribute, by means of specific

recommendations addressed to them, to improving coordination and cooperation among those entities so as to facilitate concrete action aimed at the realization of all rights of all children and youth;

3. Decides to continue to review at its fiftieth session, as a separate item of its agenda and with due priority, the situation regarding the promotion, full realization and protection of the rights of children and youth, and to provide for sufficient time for its consideration.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XIII.]

1997/33. Injurious effects of anti-personnel landmines

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking into account that anti-personnel landmines are a major instrument of grave violations of human rights, in particular the right to life,

Recalling its resolutions 1995/24 of 24 August 1995 and 1996/15 of 23 August 1996, in which it declared itself in favour of a total ban on the production, marketing and use of anti-personnel landmines,

Stressing the urgency for the Sub-Commission to follow up this issue in order to guarantee the full respect and the implementation of all relevant conventions, protocols and resolutions,

Welcoming the initiative of the Organization of American States, which in June 1996 called for the establishment of an anti-personnel mine-free zone in the Americas,

Taking note with satisfaction that the Council of Ministers of the Organization of African Unity, in February 1996, urged subregional organizations on the continent to undertake the initiatives for the prohibition of anti-personnel landmines in support of the commitment of the Organization of African Unity to a total ban on landmines,

Taking note with satisfaction also of the appeal launched by the European Parliament on 13 May 1996 to all member States to ban unilaterally the production of anti-personnel landmines and to destroy existing stocks,

Welcoming the decision of the international conference held in Ottawa from 3 to 5 October 1996, which brought together more than 40 States, to support a global ban on anti-personnel landmines and to consider short- and medium-term measures to achieve this end,

Welcoming also the decision to move towards a ban on landmines, taken at the international conference held in Brussels from 24 to 27 June 1997, at which participants signed a declaration and began negotiations on a treaty,

Welcoming further the convening of the international conferences to be held in Oslo from 1 to 19 September 1997 to finalize negotiations and in Ottawa from 2 to 4 December 1997, at which the treaty will be signed,

Regretting the inadequate result of the Review Conference of States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects held, in Geneva in May 1996, as regards the distinction made between "intelligent" and "dumb" mines and the nine-year period given to States to stop using undectable anti-personnel mines,

Gravely concerned at the constant violation of the rights to life and to security of person, particularly of vulnerabl groups of civilians such as peasants, indigenous peoples and children, caused by the use of anti-personnel landmines,

Bearing in mind that landmines cause death, maiming and psychological damage and have economic and environmental effects,

Expressing the hope that United Nations action in favour of mine clearance will in the near future result in the total and final elimination of the scourge of unexploded landmines,

Regretting that funds are lacking to improve mine-clearance techniques and step up rehabilitation programmes for the victims of anti-personnel landmines,

1. Reaffirms its support for a total ban on the production, stockpiling, transfer and use of anti-personnel landmines, as a means to protect the right to life;

2. Urges States that have not yet done so to sign and ratify the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and all the Protocols thereto, including the Protocol II on Prohibitions and Restrictions on the Use of Mines, Booby-Traps and Other Devices as Amended on 3 May 1996;

3. Urges all States to modify, where necessary, their legislation in order to prohibit the production, stockpiling, transfer and use of anti-personnel landmines in and from their territories, and to work towards an international ban on landmines;

4. Considers the date for the next Review Conference, scheduled for 2001, to be too far away in view of the existing situation with respect to this matter, which requires an urgent solution;

5. Strongly urges Governments to participate actively in the Diplomatic Conference to Negotiate a Total Prohibition of Anti-Personnel Mines, to be held in Oslo from 1 to 19 September 1997, and to commit themselves to signing an international treaty banning anti-personnel mines at the Ottawa Conference to be held from 2 to 4 December 1997;

6. Urges Member States to promote the establishment of regional and subregional zones free of anti-personnel mines;

7. Reiterates its request to Governments and the international community to pursue a policy of information, prevention, rehabilitation and reintegration for the victims of anti-personnel landmines, particularly children, and to take the economic and social measures considered necessary for that purpose;

8. Again encourages Governments, organizations and individuals that can do so to respond favourably to the request for voluntary contributions to the United Nations mine-clearance programme, if possible on a regular basis;

9. Requests the Secretary-General to transmit to all Governments, in particular those of States which in the past have laid anti-personnel landmines in the territory of other States, the Sub-Commission's appeal for voluntary contributions to the mine-clearance programme and to the Voluntary Trust Fund for Assistance in Mine Clearance established in November 1994;

10. Decides to consider this question at its fiftieth session under the same agenda item in order to ensure the necessary follow-up within the framework of the full enjoyment of human rights and the strengthening of international humanitarian law.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XIV.]

1997/34. Respect for humanitarian and human rights law provisions in United Nations peacekeeping operations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Affirming the need to respect the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the relevant provisions of the Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto,

Recalling that according to common article 1 of the Geneva Conventions the High Contracting Parties undertake not only to respect but also to ensure respect of the obligations under the Conventions,

Convinced that States parties to the Geneva Conventions and the international human rights conventions are in no way relieved of their humanitarian and human rights obligations when they put military contingents at the disposal of the United Nations,

Gravely concerned at incidents in the past in which such military contingents remained inactive while witnessing grave violations of provisions of humanitarian law, including acts of genocide,

Concerned also by continued allegations of violations of human rights by United Nations contingents engaged in peacekeeping operations,

1. Emphasizes that the conduct of military contingents put at the disposal of the United Nations should always be in conformity with the norms of international humanitarian law and international human rights law;

2. Recommends that the rules of engagement applicable to United Nations peacekeeping operations should contain explicit references to these obligations;

3. Requests the Secretary-General to disseminate the Guidelines for United Nations Forces Regarding Respect for International Humanitarian Law of 1996 drafted by the United Nations in consultation with the International Committee of the Red Cross.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XIV.]